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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 44 OF THE CONVENTION

Initial reports of States parties due in 1992

Addendum

NAMIBIA

[21 December 1992]

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VI. A Situation Analysis of Children and Women in Namibia, UNICEF/NISER, March 1991.

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* These are available, in English, for consultation in the files of the Centre for Human Rights.

I. GENERAL MEASURES OF IMPLEMENTATION

1. As a newly independent country, Namibia faces unique and immense challenges in making the rights of children a meaningful reality for all the children of the nation. The legacy of apartheid and colonialism cannot easily be erased, but Namibia has made impressive strides forward in its short history as a sovereign country.

2. Namibia's first policy document on children, The Policy of the Government of the Republic of Namibia on Children (August 1990), emphasized the importance of independence for the nation's children:

> The colonial legacy of more than a century brought suffering, apartheid, racial discrimination, war, poverty and other injustices to the Namibian people. By force of arms and legislation, the majority of the population were expropriated, subjugated and treated as sub-humans. The war imposed on the people created hatred and animosity. Communities were torn apart, families divided and children turned against their parents. Death and destruction, as ugly as they are, became common features in Namibia under colonial rule.
>
> The innocent Namibian children have been most susceptible to the hardships of hunger and disease imposed by colonial neglect. They have been the most adversely affected by the war, apartheid and poverty. Sadly, our children have for so long been virtually regarded as non-entities in the country of their birth. Their socio-cultural environment was totally destroyed. Naturally, problems suffered by children are inextricably linked with those affecting their parents.
>
> In order to bring about the necessary changes, which will ensure a better and acceptable future for our children, the Government of Namibia has had to start from the very bottom, with a view to addressing the situation in a comprehensive manner. This is a compelling prerequisite for the creation of an environment which allows the development of the body and mind of the child to its fullest potential, and better prepares it to serve the Namibian society and the world.

3. The first step in starting from the bottom was the new Namibian Constitution; by the time that Namibia signed the Convention on the Rights of the Child, many of its provisions had already been enshrined in Namibian law by the Constitution.

4. The Namibian Constitution has received worldwide acclaim for its strong protection of fundamental human rights and freedoms, which are accorded to all persons in Namibia, regardless of age. The Constitution is the supreme law of Namibia and is enforceable by an independent judiciary. The Constitution also provides for an independent Ombudsman, who is empowered to investigate complaints regarding the violation of Constitutional rights and freedoms and to take appropriate remedial action.

5. The Constitution can be amended only by a two-thirds majority vote of both houses of Parliament, or by a two-thirds majority of the members of the National Assembly and a two-thirds majority of votes cast in a national

referendum (art. 132). The provisions protecting fundamental rights and freedoms are entrenched, and no Constitutional repeal or amendment which diminishes or detracts from these rights is permissible (art. 131).

6. Since independence, the Namibian Government has consistently made children a high priority. In August 1990, the Government put forward its policy statement on children outlining goals in health, education and improvement of the general standard of living. The President of Namibia, His Excellency Sam Nujoma, attended the historic World Summit for Children in September 1990 in person, and Namibia has adopted the World Declaration on the Survival, Protection and Development of Children and the accompanying Plan of Action, in addition to the United Nations Convention on the Rights of the Child. This event was marked inside the country by a large and well-publicized children's march to the seat of the National Assembly, where representatives of the assembled children were received by the Prime Minister.

7. Namibia's plans for improving the situation of children have been further elaborated in the National Programme of Action for the Children of Namibia, published in December 1991. This Programme of Action was approved by an Interministerial Policy Committee of Permanent Secretaries, ensuring coordination among the various government ministries and departments concerned. Furthermore, a new Division of Children's Affairs has recently been established in the Ministry of Local Government and Housing, a move which should facilitate the integration of various government programmes relating to children.

8. Numerous conferences and workshops have been held on children's issues, including Early Child Protection and Development, Marginalized Children, and Primary Health Care/Community-Based Health Care, to name only a few. These conferences have not been mere "talking shops", but rather forums for raising awareness and developing strategies, as well as milestones marking the formulation of new approaches to problems which affect children.

9. The President's own enthusiasm and commitment to children's issues has been evident, from his immunization of children during the launch of the National Immunization Campaign, to his personal support at the launch of the Primary Health Care Programme, to his joyful reception of a children's march to State House to commemorate the Day of the African Child in 1991. First Lady Mrs. Nujoma is Patron of the Child Survival, Protection and Development Foundation, which was formed shortly after independence with the support of women from various regions as well as women parliamentarians.

10. The main piece of Namibian legislation dealing with children is the Children's Act No. 33, 1960, a statute which was inherited from the Republic of South Africa. The central purpose of this law is the protection of children. This includes the provision of alternatives for the punishment and rehabilitation of child offenders, as well as mechanisms for protecting children from neglect, exploitation and harmful environments. The statute also regulates adoption.

11. While the existing law is not fundamentally unsound, it is extremely outdated and in need of revision. The Ministry of Justice is in the process of preparing a new Children's Act, which will draw on the framework of the

existing statute while incorporating new ideas from children's legislation in other countries. The first draft is already nearing completion and will soon be circulated for comment from persons involved in children's issues. It is expected to be before Parliament by early 1993.

12. Namibia faces a number of serious developmental constraints which have a strong impact on the situation of children.

13. At independence, Namibia inherited gross structural inequalities in both income levels and access to basic services and resources - disparities so severe as to create "two Namibias". Namibia has a dualistic economy consisting of a modern commercial sector dominated by whites and a traditional economy based on subsistence agriculture which embraces a large proportion of the black population.

14. In 1988, Namibia had an estimated per capita income of US$ 1,200/year - but hidden in this average is the fact that the average per capita income for the whites, who constituted only 5 per cent of the total population, was US$ 165,000/year, while the average per capita income for the blacks engaged in traditional economic activities, who constituted 55 per cent of the population, was only US$ 85/year.

15. The Government estimates unemployment at 25-30 per cent of the labour force which is seeking formal wage employment, or about 50,000-60,000 persons, a staggering figure which does not even take into account the number of persons struggling to earn a living in the informal sector.

16. Apartheid policies produced a pattern of migrant labour that took men from the rural areas into the cities to seek wage employment to supplement the family's agricultural production. The result is a distortion of family structures in the rural areas, with households dominated by women, children, and the elderly. This, in turn, placed additional burdens on women in female-headed households who were forced to combine responsibility for agricultural production with primary responsibility for the raising of children.

17. As a legacy of apartheid, Namibia inherited a severe housing shortage. The total number of squatters in Namibia has been estimated at 22,000 households, involving the lives of 110,000 people, or nearly 20 per cent of the total urban population. Migrant labourers in the cities were typically housed in deplorable conditions in single quarters, usually making an annual visit to their families in the rural areas.

18. Apartheid education policies were responsible for a radical inequity in educational services and resources, resulting in profound racial disparities in education levels. Health care was provided on a similarly discriminatory basis, with a focus on curative and specialized services aimed at the needs of the wealthier white population.

19. Environmental degradation was exacerbated by the colonial Government's effort to fragment the population into ethnic groups confined to overcrowded "homelands", adding to the labour of women and producing an adverse impact on household food supplies. Residents in many rural and urban parts of the country lacked adequate access to clean water and sanitation.

20. The dislocations of the war of liberation had a particularly profound effect on family life. Some children were forced into exile or orphaned by war, while others grew up inside the country while parents or siblings left to take part in the struggle. In addition to bringing death and suffering, the war disrupted the social fabric and warped the local economy, particularly in northern Namibia where the impact of the war was most directly experienced.

21. The frustration and alienations of war, discrimination and poverty have contributed to a host of other social problems, such as widespread alcohol abuse, child abuse, rape and domestic violence. On top of all this, Namibia is currently experiencing the worst drought in a century, and struggling against an exponential surge in the number of AIDS cases. Given this background, the strides made since independence in the situation of children are truly remarkable.

22. Namibia's past status as a virtual fifth province of South Africa, combined with the fragmentation of basic services among 11 different ethnically-based administrations, has resulted in a dearth of baseline data against which to measure progress. The 1981 census conducted by the colonial Government is unreliable, and the results of the 1991 census are not yet available. However, the comparative information which is accessible shows that Namibia is making great strides forward in improving the lot of children, families and communities throughout the nation.

23. Namibia is fortunate in having a number of non-governmental organizations which are concerned with the problems of children. In addition to supporting the Government's programmes, the existence of these organizations helps to ensure that the delivery of services remains decentralized.

24. For example, among the non-governmental organizations which are involved in issues relating to children are:

(a) Alcoholics Anonymous, which has a social programme for teenagers with alcohol problems;

(b) the Breast-feeding Association of Namibia, which promotes breast-feeding and provides counselling to breast-feeding mothers;

(c) the Child, Survival, Protection and Development Foundation, which promotes issues relating to children and helps to spread information about children's rights;

(d) the Council of Churches in Namibia (CCN) which assists church-based pre-school programmes and is in the process of establishing a desk which will focus on the needs of children in especially difficult circumstances;

(e) Child Life Line, which provides a telephone counselling service aimed at children;

(f) CLASH, an association for children with language, speech and hearing impairments;

(g) the Drug Action Group, which focuses on education and support for families around the issue of drug use;

(h) the Legal Assistance Centre, a public interest law firm which handles cases free of charge for indigent clients and conducts a legal education project;

(i) the Michelle McLean Children's Trust, a project established by Namibia's Miss Universe to raise money for children's projects;

(j) the Namibia Development Trust, which works generally in the field of community development;

(k) the Namibia Network of AIDS Service Organizations (NANASO), a group of non-governmental programmes coordinating programmes aimed at the prevention of AIDS;

(l) the Namibia Red Cross Society, which includes among its programmes day care centres, AIDS education and feeding schemes;

(m) the Private Sector Foundation, which promotes small business development in both urban and rural areas and places a special emphasis on making credit and training available to women;

(n) the Rössing Foundation, which runs a number of practical education programmes, including agricultural training and life skills classes;

(o) Women's Solidarity, a group engaged in education, research and support work around the issue of violence against women; and

(p) the Young Women's Christian Association (YWCA), which promotes community development with an emphasis on women.

There are also a number of church groups which are involved in social and community work, including the provision of child-care services.

25. This list is by no means exhaustive, but it should give some indication of the range of interest and support for issues relating to children and family life. A more complete list of non-governmental organizations active in Namibia is contained in NGO's Active in Namibia, Namibia Foundation, 1992.

26. Namibia has also received extensive assistance from donor agencies and international organizations in the area of children's rights and programmes. The United Nations Children's Fund (UNICEF) has been particularly active in issues relating to the implementation of the Convention. For example, UNICEF initiated the formation of an ad hoc child rights committee which took a leading role in precipitating initiatives related to the Convention. UNICEF

has played a fundamental role in the generation and collection of baseline data about the situation of women and children in Namibia and has also provided technical and financial support for a number of programmes, including Primary Health Care, the Family Life Empowerment Programme, the Early Childhood Protection and Development initiative, the Safe Motherhood initiative and a range of programmes aimed at improving household food security.

27. Namibia is still in the process of establishing enforcement mechanisms for the Convention. The President of Namibia gave temporary responsibility for overseeing the implementation process to the Minister of Local Government and Housing, pending the establishment of more specialized monitoring mechanisms.

28. At a seminar attended by representatives of various government ministries and non-governmental organizations in June 1991, it was recommended that monitoring be undertaken by a National Ombudsman for Children, to be assisted by regional representatives. Little follow-up action has been taken on this recommendation to date, in part because there was only an Acting Ombudsman in place until a permanent appointment was made in early 1992. However, the Ombudsman's Office is currently in the process of exploring approaches to the monitoring of children's rights.

29. The ratification of the Convention on the Rights of the Child by Namibia's Parliament received wide news coverage, and it was both preceded and followed by efforts to raise public awareness of the Convention through a variety of channels. The Convention has been the centrepiece of many of the conferences and workshops on the children's issues noted above, and it has been the focus of several prominent public marches by children through the streets of the capital. Bright posters on the rights of the child are a common sight throughout the country, and children's issues have been the topic of numerous television and radio programmes.

30. An educational supplement for secondary school children called Abacus, which is distributed nationwide as a weekly insert to national newspapers, is planning to publish a unit next year on the rights of children in general, including a specific segment on the contents of the Convention on the Rights of the Child. Additional initiatives for publicizing the rights embodied in the Convention are being contemplated by the Ombudsman's Office, as part of the enforcement programme under consideration.

31. This country report will be released to the press and made widely available to the public as another of the many initiatives to raise public awareness about the current situation of children in Namibia. It is expected to receive prominent media attention, and to become an important resource document for those involved in children's issues.

II. DEFINITION OF THE CHILD

32. The legal age of majority in Namibia for both men and women, according to the Age of Majority Act No. 57, 1972, is 21 years. At this age, a child acquires full legal capacity. There are, however, a number of other ages for which specific legal rights, powers and protections apply.

33. The Namibian Constitution does not contain an overarching definition of the child, but applies various protections to "children" of various age groups. Children under the age of 16 enjoy constitutional protection against economic exploitation and hazardous employment, while children under the age of 14 are forbidden to work in factories or mines except as authorized by Act of Parliament. Children under the age of 21 are protected from arrangements which might force them to labour for their parent's employer (art. 15 (2)-(4)). No law authorizing preventative detention may permit the detention of children under the age of 16 (art. 15 (6)), and the Constitution makes education compulsory until age 16, or until the completion of primary education, whichever comes first (art. 20 (3)). All citizens who have reached the age of 18 have the right to vote, and citizens who have reached the age of 21 have the right to be elected to public office (with the exception that the President of Namibia must be at least 35 years of age) (arts. 17 (2) and 28 (3)).

34. The Childrens Act - which covers such matters as adoption, children's homes and places of detention, children's courts, the prevention of neglect, ill-treatment and exploitation of children and children in need of care - defines a "child" as any person who is under the age of 18 years, and includes for certain purposes persons between the ages of 18 and 21.

35. Namibia's Labour Act No. 6, 1992 makes it illegal to employ a child under the age of 14 for any purpose and provides varying degrees of protection for children under 15 and under 16 (sect. 42).

36. According to the Children's Act, a child who is 18 years of age is competent to give independent consent to medical treatment (sect. 20 (8A)). The consent of a parent or guardian is required for medical treatment of children below age 18, but the State may authorize medical treatment if the child's life is endangered and the parent or guardian cannot be found, or unreasonably refuses consent (sect. 59). There is no minimum age for medical counselling, including counselling about family planning.

37. There is no minimum age at which a child becomes eligible to seek independent legal advice, but there are certain practical limitations, as a child under the age of 21 cannot formally sue or be sued, or enter into a binding contract, without the assistance of a parent or guardian.

38. There is no conscription in Namibia, and the minimum age for voluntary military service in the Namibia Defence Force is 18 (Defence Act No. 44, 1957).

39. Consent to sexual intercourse is covered by both common law and statute law. At common law, a child 12 years of age or older can give consent to sexual acts which is competent to exclude a charge of rape. However, there is a statute which makes it an offence for a male to have or attempt to have intercourse, or to commit or attempt to commit "an immoral or indecent act", with a girl under the age of 16. The consent of the girl is irrelevant, but the age of the accused may be taken into account: the offender can escape conviction if he is a first offender under the age of 21 and the girl is a prostitute, or if he is under 16 and the girl deceived him into believing that she was over 16 years of age (Combating Immoral Practice Act No. 21, 1980).

40. A child over the age of 7 can in theory be convicted of a crime in Namibia. For children between the ages of 7 and 14, however, there is a rebuttable presumption that the child is incapable of wrongdoing. This means that offenders in this age group can be convicted only if the State proves that the child knowingly intended to do wrong and understood the consequences of the wrongful act.

41. "Juvenile offenders" are generally considered to be persons under the age of 18, and there are special provisions regarding procedures and punishment for children under this age (Criminal Procedure Act No. 51, 1977). There are also a few special provisions in the criminal law for persons over the age of 18 but under the age of 21.

42. There is no specified age at which a minor becomes a competent voluntary witness in court proceedings. The evidence of children is allowed if they are, in the opinion of the court, able to distinguish truth from falsehood and to understand that it is dangerous and wrong to give false testimony. However, it is a rule of procedure at common law that the uncorroborated evidence of a young child is treated with particular caution.

43. The law protects the privacy of children under the age of 18 who have been involved in legal proceedings of any nature. In criminal proceedings, the court is closed to the public where the accused is under the age of 18, or during the testimony of any witness under the age of 18 (sect. 153 (4)-(5)). It is an offence to publish any information that may reveal the identity of a child under the age of 18 who has been a party or a witness to any legal proceedings whatsoever, including both criminal and civil cases (sect. 153(3) and General Law Amendment Ordinance No. 22, 1958, sect. 1).

44. A minor (a child under the age of 21) requires parental consent in order to marry. In addition, no boy under the age of 18 years and no girl under the age of 15 years may contract a civil marriage without the permission of a designated government official (Marriage Act No. 25, 1961, sect. 26). This gender distinction appears to contradict the constitutional prohibition against discrimination on the basis of sex, but has not yet been challenged.

45. Under the common law, a minor boy becomes a major upon marriage, regardless of his age, while a minor girl who marries falls under the guardianship of her husband until she reaches majority. This gender distinction is probably also unconstitutional.

46. The sale of alcohol to children under the age of 18 is illegal. The employment of children under the age of 18 on premises with a licence to serve alcohol is also an offence, as well as the admission of children under the age of 18 to such premises (Liquor Ordinance No. 2, 1969).

47. Controlled medicines and related substances cannot be sold without a prescription to any child who appears to be under the age of 16 (Medical and Related Substances Control Act No. 101, 1965, sect. 22A).

48. There are a variety of other ares in which children acquire different rights and powers at different ages. For example, a child over the age of 10 must consent to his or her own adoption (Children's Act No. 33, sect. 71 (e)).

Children who have reached the age of 16 are eligible to obtain a licence for a firearm (Arms and Ammunition Act No. 75, 1969). A child over the age of 16 is competent to make a will (Wills Act No. 7, 1953).

49. In general, the age at which a child acquires particular legal rights and powers is determined by the capacity of children at that age to exercise the rights and powers in question meaningfully and responsibly.

50. The Division of Children's Affairs in the Ministry of Local Government and Housing takes responsibility for children aged 0 to 5. The Ministry of Education and Culture takes responsibility for the education of children from one year before primary education begins, which includes children age 6 and above. The Ministry of Youth and Sport addresses the needs of "youth", which it defines as persons between the ages of 15 and 30.

III. GENERAL PRINCIPLES

A. Non-discrimination

51. The Namibian Constitution, (art. 10) provides that all persons shall be equal before the law, and protects all persons in Namibia against discrimination on the basis of sex, race, colour, ethnic origin, religion, creed or social or economic status. The Constitution also specifically provides that private schools, colleges and institutions of tertiary education are permissible only if no restrictions on the admission of pupils are imposed on the basis of race, colour or creed (art. 20 (4)).

52. Protection against discrimination and punishment for activities, opinions and beliefs is further provided by constitutional guarantees of freedom of speech and expression; freedom of thought, conscience and belief; freedom to practise any religion and to manifest such practise; and freedom of association, as well as constitutional protection of the right of all citizens to participate in peaceful political activity (arts. 17 and 21).

53. The Constitution states that Parliament may make the practice of racial discrimination criminally punishable (art. 23 (1)). Parliament has in fact taken this step by passing the Racial Discrimination Prohibition Act, which came into force in December 1991. This Act forbids discrimination on the basis of colour, race, nationality or ethnic or national origin in a host of contexts, including public amenities, education institutions, medical institutions, employment, membership of associations and attendance at religious services.

54. The Act is very specific with regard to education; racial discrimination is forbidden, not only with regard to the admission of pupils and students to public and private educational institutions of all types, but also with regard to the treatment of pupils and students after they have been admitted. The Act also makes it a criminal offence for any person to threaten, ridicule or insult anyone on racial grounds, to incite racially based hostility or hatred, or to disseminate ideas based on racial superiority. Organizations which promote acts of violence against members of any particular racial group are also forbidden by the Racial Discrimination Prohibition Act No. 26, 1991.

55. The Constitutional prohibitions on discrimination have also been buttressed by provisions of the Labour Act. The Labour Court is empowered to take appropriate action to combat and rectify discrimination and harassment in the employment context on the basis of sex, race, colour, ethnic origin, religion, creed, social or economic status, political opinion, marital status, sexual orientation, family responsibilities or disability. Of particular relevance to young people is the fact that the employment context is specifically defined to include access to vocational guidance and training.

56. Dismissal of an employee on grounds of sex, race, colour, ethnic origin, religion, creed, social or economic status, political opinion or marital status constitutes an unfair dismissal and makes certain remedies available to the employee.

57. The legal steps which have been taken to prevent discrimination must be seen in the context of the Government's policy of national reconciliation. Since independence, the Government has repeatedly stressed the need to focus on the future rather than the past, in an effort to heal the wounds caused by the apartheid practices of the colonial administration. Widespread endorsement of this policy has helped to produce an atmosphere of racial harmony, and there is a remarkable absence of bitterness about past divisions and conflicts.

58. The position of children born to single mothers must be considered under the topic of non-discrimination. In the past, in some communities in Namibia, the conception of a child out of wedlock was viewed as a serious moral affront. However, today single mothers and their children are accepted for the most part without discrimination or social repercussions.

59. Children born to single mothers face few legal disabilities stemming from the mother's marital status. In terms of civil law, the child takes the mother's name unless the father has acknowledged paternity in writing. The mother is ordinarily the legal guardian and is entitled to custody of the child. The duty to support a child born out of wedlock is shared between the parents, according to the earnings of each, and there are several legal presumptions which are designed to assist the mother in proving paternity for this purpose.

60. The only legal disadvantages under civil law for children born out of wedlock arise around the issue of inheritance. Such a child will not inherit anything from the father or the father's relatives unless there is a will which clearly indicates an intention to make the child an heir, even where paternity has been acknowledged or otherwise proved.

61. The position under customary law differs from community to community, but one common situation is that a child born to a single mother is considered to be part of the mother's family only, unless the father has acknowledged paternity by paying damages to the woman or her family. The degree of financial responsibility taken by the father and his family often depends on the attitude of the individuals involved.

62. On the whole, legal and social discrimination against children born to single mothers is gradually being eliminated. However, the biggest disadvantage for these children is not legal or social, but economic. Options for the diversification of family income are limited in any single-parent family, and general disparities in job opportunities and wages make this a particular problem in female-headed households. Although single mothers are usually entitled to maintenance for their children, it is often impossible to collect money from errant fathers. (See sect. V E below).

63. Disproportionate numbers of street children come from single-parent households, and young girls in single-parent families are often forced to drop out of school to care for their younger siblings. Thus, the contours of the "family" can disadvantage the innocent child on a myriad of fronts.

B. Best interests of the child

64. The Namibian Constitution (art. 15 (1)) recognises the best interests of the child as the primary guiding principle in family matters, by providing that children have the right from birth to know and be cared for by their parents, subject to legislation enacted in the best interests of the child.

65. At common law, the court is the "upper guardian" of all children, with the responsibility to decide all matters which come before it in the best interests of the child. The court's status as "upper guardian" allows it to decide questions of guardianship and custody in the case of divorce or separation of the child's parents, or to interfere with parental power if there is a danger to the child's life, health or morals.

66. In terms of the Children's Act, children suffering from severe material or moral neglect can be removed from their parents or guardians and placed in the custody of foster parents, a children's home or a school of industries, or under the control of an agency approved by the State. The guiding principle in such circumstances is always the best interests of the child, and the persons and institutions which provide alternative care are regulated and supervised by the State. (See sect. V F below).

67. In many communities in Namibia, questions relating to children are decided in accordance with traditional laws and customs rather than through statutory procedures. Although customs differ from community to community, a high value is placed on the welfare of children in virtually all Namibian communities, and it is common for the extended family to take responsibility for the care of the child in situations where the parents are unable to do so. Although this can place heavy burdens on certain family members, particularly grandmothers, the involvement of the extended family provides a strong network of resources and guidance to protect the best interests of the child.

C. The right to life, survival and development

68. The Namibian Constitution (art. 6) provides that the right to life shall be respected and protected. Furthermore, in the section of the Constitution on principles of state policy, Namibia has committed itself to take a number of steps which promote the survival and development of the child. For example, the State has pledged, among other things:

(a) To enact legislation ensuring equality of opportunity for women, and in particular the principle of equal pay for equal work and the provision of maternity and related benefits;

(b) To enact legislation ensuring that the health and strength of workers, both male and female, and the tender age of children are not abused, and that citizens are not forced by economic necessity to enter vocations unsuited to their age and strength;

(c) To enact legislation ensuring that the unemployed, the incapacitated, the indigent and the disadvantaged are provided with just social benefits;

(d) To ensure that workers are paid a living wage adequate for the maintenance of a decent standard of living;

(e) To raise and maintain an acceptable level of nutrition and standard of living for all Namibians and to improve public health; and

(f) To maintain ecosystems, essential ecological processes and biological diversity, and to utilize resources on a sustainable basis (art. 95).

The fact that these principles are expressed at a constitutional level demonstrates their importance in the eyes of the Government.

69. The Government of Namibia has repeatedly emphasized the urgency of measures to promote child survival and development. For example, His Excellency, President Sam Nujoma has written, in the Foreword to the National Paper on the Children of Namibia:

> "Governments, parents, and indeed, all responsible and influential adults are called upon to seriously consider the plight of our children as a matter of utmost priority. The rights of children, as the inheritors and custodians of the future, must be identified and strictly observed to avoid a future doomed to dependency and crisis.
>
> It is not enough to put a signature to the United Nations Convention on the Rights of the Child:
>
> - No child should die from a preventable disease, and Governments should strive for a 95 per cent rate.
>
> - No child should be cursed with illiteracy, and ultimately unemployment. Therefore primary education should be compulsory.
>
> - No child should go to sleep hungry and cold, and everything possible must be done to provide sufficient food and adequate shelter for all.

70. This pledge of commitment to child survival and development is no empty rhetoric. The Government of Namibia has identified as overall priorities for the nation four sectors which are crucial to this goal: Agricultural and Rural Development, Education, Health, and Housing.

71. More specifically, the Government's policy on children commits the Government to action in five basic areas:

(a) Ensuring that every child has fair and reasonable access to public services;

(b) Ensuring that consistent efforts are undertaken to raise and maintain an acceptable level of nutrition and standard of living of the Namibian people and to improve public health, nutrition and access to safe drinking water;

(c) Ensuring equal opportunity for women to enable them to participate fully in all aspects of development and society;

(d) Ensuring that the ecosystems, essential ecological processes and the biological diversity of Namibia are maintained; and

(e) combating diseases and malnutrition within the framework of primary health care through the application of appropriate technology.

72. The allocation of the State budget indicates the strength of this commitment. In the 1990/91 fiscal year, education, health and social services received a combined total of 31.9 per cent of the total budget. Community services - including education, health, social security/welfare, housing and recreation - accounted for 40 per cent of all current and capital expenditures combined during this period. This financial commitment, already extremely impressive by world standards, had increased even more by the 1992/93 financial year, when education, health and social services received a combined total of 32.2 per cent of the total budget, and overall community services accounted for a striking 46 per cent of all expenditures.

73. A breakdown of some of the 1992/93 Government expenditures in these fields illustrates the priority given to the survival and development of children, both directly and through the improvement of the family living situation. For example, basic education (pre-primary, primary and non-formal education) accounts for 51 per cent of the total expenditure on education, and 57 per cent of the health budget is dedicated to primary health care. Other budgetary highlights include:

- R25M (US$ 9m) for low-cost housing;
- R120m (US$ 43m) for drought relief;
- R56m (US$ 20m) for water-provision infrastructure; and
- R16m (US$ 6m) for electrification of the northern regions.

74. The following sections will show how the constitutional pledges and the policy statements of the Government have been translated into effective action in the area of child survival and development in the two short years since independence. Although a number of initiatives are still in the planning

stages, there has already been a significant amount of progress in health, in education and in efforts to assist children in particularly difficult circumstances.

D. Respect for the views of the child

75. The laws and procedures of Namibia respect the right of a child to express his or her view in all matters affecting the child. Under Namibian law, the evidence of children in judicial and administrative proceedings is allowed, regardless of the age of the child, if the child is able to distinguish truth from falsehood and to understand that it is dangerous and wrong to give false testimony.

76. As noted above, the opinion of the child is also sought in regard to alternatives to the family environment. Under the existing laws relating to adoption, a child over the age of 10 must consent to his or her own adoption. Also, where a children's court holds an inquiry in respect of a child in need of care because of material or moral neglect, the law requires that the inquiry be held in the presence of the child, unless this is deemed inadvisable because of the child's infancy, ill-health or some other sufficient reason. (Children's Act, sect. 30).

77. Students have a voice in educational matters at all levels. Student Representative Councils exist at all levels of schooling and are represented on school boards at the senior secondary level. At the university level, two members of the Student Representative Council sit on the University Council, which is the executive authority of the University. (University of Namibia Act No. 18, 1992, sect. 9 (3)).

78. The Namibian Educational Code of Conduct for Schools states that students have the right, in consultation with the school administration, parents and the school board, to have their opinions taken into consideration in setting school policy regarding discipline. This Code of Conduct also provides that every school must establish channels for students to air grievances or appeal decisions directly affecting their academic or extracurricular development.

79. Furthermore, the Ministry of Education has been advocating a new approach to discipline embodied in the concept "Discipline from Within". In contrast to the emphasis on physical punishment in the schools in the colonial era, this new approach emphasizes self-discipline based on the cooperative effort of students, teachers and parents. Under this approach, school regulations are not presented as something imposed by the school on the students, but as something necessary to learning which belongs to both staff and students and requires community support.

80. The first issue of a new newsletter, Youth Matters, published by the Ministry of Youth and Sport for young people aged 15-30, notes:

> At present, no systems, structures, and opportunities exist that allow young people to participate in important decision-making. Namibia has no national format for young people to express their needs, aspirations and priorities for government with regard to the youth.

To address this problem, the Ministry is in the process of establishing a National Youth Council to represent the opinions of Namibia's youth in national and international forums. Youth forums are being established in each region in an effort to draw youth together across party-political lines to discuss issues of common interest. Representatives will be drawn from each regional forum to sit on the national council.

81. The National Youth Council will speak on behalf of Namibia's youth in international forums such as the United Nations. It will also help to formulate national programmes for youth, provide input from young people into other governmental policies and facilitate peer group counselling on problems which affect young people.

IV. CIVIL RIGHTS AND FREEDOMS

A. Name, nationality and identity

82. The protection provided by the Convention on the Rights of the Child for a child's right to a name and nationality is directly echoed in the Namibian Constitution (art. 15 (1)), which states:

> Children shall have the right from birth to a name, the right to acquire a nationality and, subject to legislation enacted in the best interests of children, as far as possible the right to know and be cared for by their parents.

83. The Constitution is reinforced on the issue of name and identity by a statute which requires that all births in Namibia must be officially registered within 14 days. A birth will not be registered unless a name has been assigned to the child. Deaths, including still-born children, must also be officially recorded (Births, Marriages and Deaths Registration Act No. 81, 1963).

84. The right to acquire a nationality is also protected by the constitutional provisions on citizenship. All children born in Namibia to a father or a mother who is either a citizen of Namibia or ordinarily resident in Namibia at the time of the birth are considered to be Namibian citizens by birth. There are a few exceptions to this rule with regard to residence (for example, the rule does not apply to the children of diplomats or illegal immigrants), but the Constitution specifically states that these exceptions are not to be applied in such a way as to make any child stateless.

85. Children born to a Namibian father or mother are Namibian citizens by descent, regardless of the place of their birth.

86. In contrast to the situation in some other countries, the Namibian Constitution (art. 4) treats men and women equally with regard to matters of citizenship; for example, a child born to a Namibian mother is in exactly the same position as a child born to a Namibian father, and both women and men who marry a Namibian citizen are equally eligible to become Namibian citizens (Namibian Citizenship Act No. 14, 1990).

87. Cultural identity is also given strong protection by the Namibian Constitution. There is a specific section on cultural rights which states that every person shall be entitled to enjoy, practise, profess, maintain and promote any culture, language, tradition or religion so long as this does not impinge upon the rights of others or the national interest (art. 19).

88. Furthermore, although the Constitution establishes English as the official language, it specifically states that other languages may be used as a medium of instruction in schools (in accordance with requirements which may be imposed to ensure that all children achieve proficiency in the official language) and in legislative, administrative and judicial proceedings in parts of the country where a substantial component of the population speak a language other than English (art. 3).

89. The Namibian Government has already demonstrated a commitment to the protection of identity as it is contemplated by the Convention in its response to the aftermath of the war of liberation. The Namibian Government formally requested the International Committee of the Red Cross to assist in tracing persons reported missing during the course of the war.

90. The Namibian Government has been extremely sensitive to the adjustment problems faced by children returning from exile since independence. For example, special bridging programmes have been set up to help children who were in the midst of schooling in other countries integrate themselves into the Namibian curriculum and acquire necessary language skills. Namibian children who had spent years in Germany and were accustomed to German language and customs were placed with German-speaking foster parents upon their return to facilitate the transition as they gradually re-established ties with their own families. In this way, the experiences of Namibian children abroad became an enriching asset rather than a handicap.

B. Freedom of expression and access to appropriate information

91. True freedom of speech did not exist in Namibia prior to independence, particularly with regard to the expression of political ideas and opinions. A large body of information was banned on political grounds, and the charge of possession of banned literature was commonly brought against opponents of the colonial Government.

92. Before independence, publications and objects could be termed "undesirable" in terms of the Publications Act, a South African statute which was made applicable to Namibia. Decisions on "undesirability" with respect to both South Africa and Namibia were made by committees established under a Directorate of Publications in South Africa, with appeals against determinations of "undesirability" being handled by the South African Publications Appeal Board. The top South African official in Namibia, the Administrator-General, was given the power to overrule the decisions of these bodies with respect to Namibia.

93. Just prior to the elections held pursuant to Security Council resolution 435 (1978), the provision in the Publications Act making it possible to declare publications undesirable on the grounds that they were "prejudicial to the safety of the State" was repealed in Namibia.

94. Before independence, television and radio broadcasting were monopolized by a State broadcasting corporation which offered little more than propaganda for the status quo. Studies of election reporting in the days leading up to independence clearly showed a political bias at work.

95. The Namibian Constitution protects the right of all persons to freedom of speech and expression, including freedom of the press and other media (art. 21 (1) (a)). Reasonable restrictions may be imposed by law on the exercise of this fundamental freedom, but only in so far as such restrictions are necessary in a democratic society. More specifically, fundamental freedoms such as to freedom of expression can be limited only as required in the interests of Namibia's sovereignty and integrity, national security, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence (art. 21 (2)). Freedom of speech and expression, along with freedom of the press and other media, may not be otherwise infringed or suspended, even during a war or a state of emergency (art. 24).

96. The main objective of government policy on information is to ensure that the media, in addition to fulfilling their traditional roles of public enlightenment, education and entertainment, serve as a catalyst for nation-building and socio-economic development. The National Development Plan 1991/92 stipulates that the mass media must also be deployed to combat ignorance and illiteracy.

97. The Government has already taken a number of steps to encourage the dissemination of diverse information through the mass media. The Namibian Broadcasting Corporation (NBC), a parastatal governed by statute, operates one television service which broadcasts in English and 10 radio services which broadcast in all major Namibian languages. Radio reaches approximately 90 per cent of the population, and NBC is in the process of taking measures to increase the range of its television broadcasts from a coverage level of 35 per cent of the population in 1990. NBC has a special education section which has produced programmes aimed at both children and adults on English language skills, health and family planning, agricultural issues, the environment, career guidance and social problems such as unemployment, family relationships, housing and street children.

98. In order to increase the diversity of information disseminated by the broadcast media, the Government has established a Namibia Communications Commission which will allocate additional broadcast licences to both public and private bodies. This Commission is charged with allocating licences in a manner which will ensure the widest possible diversity of programming, and all licence holders will be required to consider the needs and interests of Namibian men, women and children in a multi-cultural and multi-racial Namibian society. Although broadcasting regulations have not yet been promulgated, there are plans to regulate advertising which is aimed at children very strictly (Namibia Communications Commission Act No. 4, 1992).

99. With regard to the print media, the Government has established a statutory body to compile and publish a newspaper called New Era. This newspaper, a weekly with a nationwide distribution, includes stories written in various indigenous languages as well as in English. In an effort to

provide information which was being neglected by the privately run print media in Namibia, New Era is directed by statute to place special emphasis on community-related issues, particularly those of importance in rural areas, on issues of national interest and on government-related matters which may concern the community (New Era Publication Corporation Act No. 1, 1992).

100. In another effort to ensure the widespread dissemination of news and information from national and international sources, the Government has created by statute a Namibia Press Agency (NAMPA), which functions as a news agency service to collect and distribute information for subscribers and other persons, bodies and organizations (Namibia Press Agency Act No. 3, 1992).

101. Namibia actively encourages the international exchange of social and cultural information. For example, by the end of 1991, Namibia had already entered into cultural cooperation agreements with more than a dozen countries. The establishment of a National Commission for UNESCO has also facilitated access to international funding and expertise for cultural participation and development. Another example of Namibia's progress in this regard is that one of the goals of the Namibia Broadcasting Corporation is to link Namibia to the international media, in an effort to break the isolation experienced before independence.

102. Prior to independence, there were virtually no children's books appropriate to the Namibian setting. By the beginning of 1992, the State's National Institute of Educational Development had established curriculum panels to supervise curriculum and textbook development. However, a number of new textbooks have already appeared as the product of private initiative and informal consultations with the Ministry of Education.

103. A large number of new textbooks will be developed in the next few years, in accordance with the curriculum reforms which are being implemented at the primary and junior secondary levels, and because of changes in policies on the language of instruction at various school levels since independence. At the moment, there is a shortage of textbooks, as textbook orders have exceeded budgeted amounts. This problem is being addressed in part by a book counting exercise which will locate areas with surplus textbooks which can be allocated more effectively. The issue of textbook development and supply is still being studied by the Ministry of Education, but textbooks for the new junior secondary syllabus are expected to be ready in about two years (see sect. VIII A below).

104. One innovative private effort in the field of children's books is Build-a-Book, a non-government collective of writers, illustrators and others who work together to produce books which will appeal to Namibian children. In 1992, this group succeeded in publishing five books of fiction for children, and they hope to put out five new titles every 18 months.

105. There are two statutes in force which place protective restrictions on freedom of speech and expression, both inherited from the pre-independence era - the Publications Act and the Indecent or Obscene Photographic Matter Act.

106. Aside from the pre-election amendment noted above, the Publications Act has not been changed since the adoption of the Namibian Constitution. Publications and objects can be declared "undesirable" if they are indecent or obscene, offensive or harmful to public morals, blasphemous or offensive to the religious convictions or feelings of any segment of the population, harmful to the relations between any sections of the inhabitants of the nation, prejudicial to the general welfare or to peace and good order, or if they bring any segment of the population into ridicule or contempt. It is an offence to produce, distribute or possess an undesirable publication or object.

107. At present, this Act is still administered in large part by South Africa. For example, questionable publications are still sent to South Africa for assessment, and video shops operating in Namibia must register with the South African authorities. It is obviously untenable for a foreign country to make judgements on accepted norms in Namibia, and this situation is soon to be changed.

108. The Indecent or Obscene Photographic Matter Act No. 37, 1967 makes it illegal to possess photographs, films or similar representations of sexual intercourse, licentiousness, lust, homosexuality, lesbianism, masturbation, sexual assault, rape, sodomy, masochism, sadism, sexual bestiality, or anything of a like nature.

109. Both of these statutes are under review at present.

110. Another mechanism for protecting children from harmful information is a legal provision empowering criminal courts to exclude persons under the age of 18 from criminal proceedings (Criminal Procedure Act No. 51, 1977, sect. 153 (6)).

C. Freedom of thought, conscience and religion

111. Before independence, freedom of thought, conscience and religion were conspicuously absent. People were regularly detained and tortured on the basis of their political beliefs, and churches fell under attack as political bodies. Free expression of beliefs contrary to those held by the colonial Government was sometimes at the risk of one's life. Even an expression of opinion as seemingly innocuous as wearing a trade-union t-shirt or sporting political colours could inspire an arrest or a beating at the hands of the security forces. Because of this background of oppression, these freedoms are particularly cherished in Namibia today.

112. The Namibian Constitution protects the right of all persons to freedom of thought, conscience and belief, including academic freedom in institutions of higher learning and the freedom of all persons to practise any religion (art. 21 (1) (b)-(c)). As in the case of freedom of speech, reasonable restrictions may be imposed by law on the exercise of these rights, but only such restrictions as are necessary in a democratic society and required in the interests of Namibia's sovereignty and integrity, national security, public order, decency or morality, or in relation to contempt of court, defamation or

incitement to an offence (art. 21 (2)). The rights in question may not be otherwise infringed or suspended, even during a war or a state of emergency (art. 24).

D. Freedom of association and of peaceful assembly

113. Freedom of association was regularly denied in Namibia prior to independence. Membership in groups which were opposed to the colonial Government was grounds for detention, torture or even death, as was membership in certain trade unions. During the campaign leading up to the election held pursuant to Security Council resolution 435 (1978), free and open political rallies were held in some parts of the country for the first time in years.

114. The Namibian Constitution protects the right of all persons to assemble peaceably and without arms and guarantees freedom of association (art. 21 (1) (d)-(e)). Reasonable restrictions may be imposed by law on the exercise of these rights, but only such restrictions as are necessary in a democratic society and required in the interests of Namibia's sovereignty and integrity, national security, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence (art. 21 (2)). Freedom of association (but not freedom of assembly) is fully protected during a war or a state of emergency (art. 24).

115. This right has been exercised frequently since independence, in the form of marches and rallies to mobilize the public around the Convention on the Rights of the Child, to draw attention to the rights of women and children, and to highlight other family issues such as violence against women.

E. Protection of privacy

116. During the struggle for Namibian independence, personal privacy was routinely infringed by agents of the colonial Government. Persons were interrogated by the security forces in their homes, and the security police intercepted telephone calls and post. Detention without trial often broke apart family units. Against this background, the Namibian Constitution provides strong protection against the recurrence of similar abuses in the future.

117. The Namibian Constitution contains a specific provision on privacy which applies to all persons in Namibia. No one is subject to interference with the privacy of their homes, their correspondence or their communications, except in accordance with law and as is necessary in a democratic society in the interests of national security, public safety, the economic well-being of the country, the protection of health or morals, the prevention of disorder or crime, or the protection of the rights or freedoms of others (art. 13 (1)). The Constitution also requires that prior judicial authorization be obtained for searches of the person or the home, except where there is a danger that delay will defeat the object of the search or be contrary to the public interest. Searches without warrants are covered by statutory safeguards, to prevent abuses of the procedure (art. 13 (2)).

118. Protection for the privacy of the family is buttressed by another provision of the Constitution, which states that the family is the natural and fundamental group unit of society and is entitled to protection by society and the State (art. 14 (3)).

119. Defamation, which is defined as the publication of information which tends to injure the reputation of another person, is a criminal offence in Namibia. Even the publication of true facts can constitute defamation if the publication of the information is not for the public benefit.

F. Torture and degrading treatment

120. As a part of the general protection of the right to life, the Namibian Constitution prohibits the imposition of the death sentence for any crime (art. 6). It also guarantees respect for human dignity, even during the enforcement of a penalty imposed by the State, and provides that no person shall be subject to torture or to cruel, inhuman or degrading treatment or punishment (art. 8). These are fundamental rights and freedoms which are entrenched against any amendments which might diminish or detract from them (art. 131).

121. In 1991, the Supreme Court of Namibia ruled that the constitutional guarantee of human dignity precludes the possibility of corporal punishment for both adult and juvenile offenders, as well as the use of corporal punishment in schools. Since then, there has been an emphasis on "Discipline from Within" as an alternative to corporal punishment in the schools; while emphasizing that discipline is an important prerequisite to effective education, the Ministry of Education and Culture is fostering the development of discipline through the internal values of self-control, respect and care for others. (See also sect. VII A below).

122. The High Court of Namibia recently considered the question of whether life imprisonment in general is constitutional. After a detailed analysis which took account of international practices, the court ruled that life imprisonment is not a violation of the Constitution. Furthermore, the court took judicial notice of the fact that public and parliamentary debate would seem to indicate that the people of Namibia are in favour of allowing imprisonment for life in crimes of extreme gravity, particularly in the absence of the death penalty. However, it should also be noted that under Namibian law, a sentence of life imprisonment is not mandatory but discretionary. Furthermore, all prisoners - including those sentenced to life imprisonment - are eligible for early release (Prisons Act, 1959, sects. 61 and 61 bis).

V. FAMILY ENVIRONMENT AND ALTERNATIVE CARE

123. Family structures in Namibia have experienced severe strain in the past from the effects of apartheid and colonialism, in the form of displacements caused by the war, migrant labour, housing shortages, unemployment and the grossly unequal distribution of income, education and resources. These problems, in turn, manifest themselves in loss of confidence, social isolation and marginalization, alcohol abuse, rape and domestic violence, which further undermine the position of the family.

124. Realizing that this complex combination of factors can be addressed successfully only through a holistic approach, Namibia has developed a unique integrated package of interventions called the Family Life Empowerment Programme (FLEP) which attempts to strengthen the family as the basic unit of society. The programme is particularly targeted at children and women, who are most vulnerable and most accessible in the sphere of the family and the community. FLEP will attempt to redress the weakening of family and community structures through a variety of initiatives which will involve non-governmental organizations, community-based groups and churches.

125. For example, the programme will promote healthy lifestyles by integrating issues such as primary health care and AIDS prevention into family and community life. Drug and alcohol abuse within families will be tackled, and family counselling will be promoted. The programme will also attempt to mobilize communities around improved child care, protection and education. This will benefit not only children, but also women, by lightening their workload and thereby freeing them for activities such as employment and literacy training. Support will be given to women and children in especially difficult circumstances, in the form of both preventative and rehabilitative initiatives such as life skills training and confidence-building exercises. FLEP will also aim to increase the access of families to public information on a range of topics, in ways which are accessible and useful in practical terms.

126. By empowering families, the programme will also empower disadvantaged communities. FLEP will seek to tackle the problems which affect children, not at the level of symptoms, but at the source.

127. A key component of FLEP is the concept of Early Childhood Protection and Development (ECPD), which looks at physical, emotional, social and intellectual development in the early, formative years and how these different forms of development are interrelated.

128. At a landmark conference in May 1992 which was attended by more than 200 participants from Government, non-governmental organizations, churches, day-care centres, pre-schools and the private sector, Namibia's basic policy on Early Childhood Protection and Development was defined. The overlapping involvement of various government ministries in this area was addressed, and it was recommended that responsibility be allocated as follows: the Ministry of Local Government and Housing to be responsible for community mobilization and the registration of day-care centres and pre-schools; the Ministry of Education and Culture to take the lead in training trainers and educators and developing curricula guidelines; and the Ministry of Health and Social Services to focus on health and nutrition, to conduct immunization and growth monitoring programmes at day-care centres and pre-schools, and to be responsible for monitoring health and safety standards at child-care facilities. Further policy guidelines for the implementation of the ECPD programme are still being formulated. The conference also proposed that an inter-ministerial, multi-sectoral body be established to focus on the spectrum of needs of children from birth to age 6. Again, this illustrates the Government's awareness of the importance of looking at the complex realities confronting children in a holistic fashion.

A. Parental guidance

129. As noted above, the Namibian Constitution recognizes the family as the fundamental group unit of society and states that it is entitled to protection from society and the State (art. 14 (3)). The Constitution does not define what is meant by the "family", but State policy has been sensitive to the fact that Namibia contains a variety of family structures, including complex extended families and female-headed households.

130. In preparation for the forthcoming International Year of the Family, preparation for a national study on Namibian families is already under way.

131. Namibian common law contains a concept of "parental power", which is the sum total of rights and responsibilities of parents in respect of their minor children, simply by virtue of the fact that they are parents. For example, parents have a legal duty to feed, clothe, shelter and protect their children, and a responsibility to develop the child's body and mind. Parents also have a legal right to exercise reasonable and moderate chastisement of the child. The courts have the power to interfere with parental power only to protect the interests of the child in the case of a separation between the parents (such as a divorce), or where the parental power is being exercised in a way which endangers the life, health or morals of the child.

132. If a child is under the age of 21, both parents must give their consent for the child to marry (unless a court has awarded sole guardianship of the child to a single parent) (Matrimonial Affairs Ordinance No. 25, 1955, sect. 4 (4)).

133. Prior to independence, children were often divided from their parents by the realities of war and migrant labour. The Government is taking steps to eradicate the marks of the past, as far as possible. For example, new families have been found for children orphaned by the war, and "single quarters" for male workers in some of the urban areas are gradually being replaced with family housing.

134. As part of the Family Life Empowerment Programme discussed above, a legal education project is being undertaken by a non-governmental public interest law firm, the Legal Assistance Centre. This project involves the development of educational materials around family law, with an emphasis on the legal rights of women and children, for use in school and community education projects. The idea is to help people understand not only what their rights are, but also how to assert them.

B. Parental responsibilities

135. As noted above, the Namibian Constitution guarantees to all children as far as possible the right to know and be cared for by their parents (art. 15 (1)).

136. Although the Constitution guarantees equality to men and women in all aspects of marriage, Namibia is still in the process of bringing its civil and customary law in line with the Constitution (art. 14). For example, marriages

under civil law are normally in community of property with "marital power" in the hands of the husband, meaning that he has control of the joint property of the couple and the final say on all matters affecting the family, including decisions about the raising of the children.

137. "Parental power" is not shared equally between husband and wife under Namibian common law. For example, the father has the right to control the property and the education of minor children. The father and the mother share control over the person of any minor children, but if there is a difference of opinion, the father's authority prevails. The common-law position has been slightly altered by statute (see para. 132 above) to require that the consent of both mother and father are necessary if a minor child wishes to marry. Although the inequities between the powers of mothers and fathers over their children seem clearly unconstitutional, this aspect of the law has not been challenged since independence.

138. In terms of customary law, Namibia has some communities which are matriarchal and some which are patriarchal, but in both cases primary decision-making power on family matters usually rests with the males of the mother's or the father's family. Similarly, social custom in most communities still dictates that direct responsibility of the care of children falls upon the mother, while decision-making power rests with the father. This social discrimination against women will be much harder to eradicate than the remaining legal discrimination.

139. The available evidence suggests that female-headed households are common in Namibia - either because they are headed by single mothers, widows or women whose male partners have left them, or because the male members of the household are absent for most of the year as a result of migrant labour patterns. For example, a 1990 UNICEF survey found that 36 per cent of households in urban Katutura and 40-49 per cent of households in the rural/peri-urban Ovambo region were headed by women.

140. Female-headed households confront special problems in the area of child-rearing. Women generally have unequal access to the limited opportunities for formal employment in Namibia, partly because of continuing patterns of gender discrimination and partly because wage employment is concentrated in the urban areas. Furthermore, women who are employed are still concentrated in low wage sectors of the economy. Thus, households which depend on a woman's income as a primary source of cash income are typically disadvantaged. The consequences for children are illustrated by the 1990 UNICEF survey, which found that children in households headed by women were more likely to be stunted in growth in all locations surveyed.

141. A further complication is that women in female-headed households do not necessarily enjoy decision-making power over their own income, particularly in rural areas and particularly with respect to agricultural production. In addition to affecting the allocation of family resources, this constraint can also limit the possibilities for economic improvement. Also, in female-headed households, primary responsibility for the care of young children often falls upon older siblings or grandparents. This contributes to the school drop-out rate for young girls, putting them at an educational disadvantage which tends to help perpetuate women's unequal access to formal employment.

142. An issue which is of importance to both single and married women is maternity protection. At independence, there was very little maternity protection for working women; 12 weeks of leave were required for all women who worked in "factories", but there was no provision for pay from any source and no protection against dismissal. Namibia's new Labour Act No. 6, 1992, requires 12 weeks' maternity leave for all women who have been in continuous service with the employer in question for at least one year. The Act also makes it unlawful for an employer to dismiss a woman because of her pregnancy, or to prejudice her position or her job benefits in any way because of the maternity leave. This maternity protection applies equally to all working women, whether single or married (sect. 41).

143. There is no provision for payment during maternity leave in the Act, but maternity benefits are expected to be part of a State social security package which is in the process of being formulated. There is also no provision in the Act for paternity leave, despite the fact that several male-dominated trade unions have advocated this benefit.

144. The Labour Act is also silent on the issue of time off for breast-feeding, on the question of flexible work schedules to accommodate family responsibilities, and on the possibility of utilizing the sick leave which is required under the Act for the care of sick children.

145. Child-care facilities for children below primary-school age are discussed in detail below. Included among the efforts to improve child-care services and facilities are the Early Childhood Protection and Development programme, which has already been summarized, and the Baby and Mother Friendly Initiative, which is described below.

C. Separation from parents

146. The right embodied in article 9 of the Constitution is also protected by the constitutional guarantee that all children shall have as far as possible the right to know and be cared for by their parents, subject to legislation enacted in the best interests of the child (art. 15 (3)).

147. As noted above, a child can be removed from its parents by a children's court where this is necessary in the best interests of the child because of severe material or moral neglect, but this is not a step which is taken lightly. Where a children's court has reason to suspect that a child is in need of care apart from the parents, it conducts an enquiry into the matter. The child's parent or guardian has a responsibility to attend the proceedings and may also take part. The court has the authority under the Children's Act to remove the child to a place of safety while the enquiry is under way. In the event that a child is removed from the parents or guardian, the case is reviewed after an initial two years, and thereafter at yearly intervals, to determine whether family reintegration is feasible.

148. In the case of a divorce (or where a separation of spouses has been authorized by the court), the court has the power to regulate the exercise of parental power in the best interests of the minor children involved. The court will normally grant custody of the minor children to one parent and a right of access to the other. It is possible for custody of a child to be

given to a third person, such as another family member, but this occurs only in special circumstances. It is also possible for custody to be divided, where each parent is awarded the custody of a different child, or custody of the same child for different periods. The court has the power to grant custody on the condition that the child may not be removed from the jurisdiction of the court, or from the country, where such a removal would constitute an unreasonable interference with the other parent's right of access.

149. The court may give exact directions as to how the right of access may be exercised. For example, the court might grant access during school holidays or on alternate weekends, or it might specify that the custodial parent must be present or absent when the right of access is exercised by the other parent. It is very rare for a court to deny a parent access to a minor child completely, and this would occur only where it was clearly in the best interests of the child.

150. Where the parents of a minor child were never married, the mother is normally entitled to both guardianship and custody of the child. The father has no right of access, but access to the child and even custody may be granted to the father by the court if this is in the best interests of the child.

151. Prior to independence, the separation of parents and children because of detention, imprisonment, exile and other such causes was common. The climate of repression compelled a secrecy which caused family members to be lost to each other for years if not forever. The Namibian Constitution provides a number of safeguards against the recurrence of such "disappearances". For example, in normal situations, all persons arrested or detained must be brought before a magistrate within 48 hours. Even during a state of emergency, the Constitution requires that a list of all persons detained must be published in the Government Gazette within 14 days of the date of detention, and all detentions must be reviewed by a judicial advisory board within one month (arts. 11 (3) and 24 (2)).

152. The constitutionally guaranteed right to enter and leave Namibia means that Namibians will never again have to leave the country covertly, without informing family members of their whereabouts (art. 21 (1) (i)). The Constitution also requires that all deportations must be authorized by a tribunal established by law, and protects the right of illegal immigrants to consult legal counsel (art. 11 (4)-(5)).

153. Whenever a juvenile offender is brought before a court on criminal charges, the law requires that the juvenile's parents or guardians be notified and summoned to attend the proceedings (Criminal Procedure Act No. 51, 1977, sect. 74). Similarly, whenever a children's court holds an enquiry to determine whether or not a child must be removed from the home environment, the parents or guardians are summoned to attend (Children's Act, sect. 34).

154. Mothers who are imprisoned are allowed to keep children under the age of two in prison with them. This policy prevents the interruption of breast-feeding and assists women who may not have other child-care options. The situation of such children is monitored by social workers at the prison.

The Department of Prisons ensures that the basic needs of such children are met, and family members are allowed to bring supplies for the use of such children. Pregnant women who are imprisoned are provided with a special diet and are allowed to leave the prison for delivery.

155. As of September 1992, the only children in prison with their mothers were two infants under the age of six months in Windhoek Central Prison.

156. The Department of Women Affairs in the President's Office recently suggested that older children staying in prison with their mothers should be allowed to leave the prison to attend day-care programmes, to ensure that they have contact with other children and with the outside world. The Department of Prisons has agreed to this suggestion in principle, provided that the logistics can be worked out, but there are no children in need of such an arrangement at present.

157. Mothers who are imprisoned have indicated particular concern about the situation of the children which they must leave behind outside the prison, and there seems to be a need for more support in this area.

D. Family reunification

158. Prior to Namibian independence, a frequent punishment for opposition to the colonial Government was the denial of a passport. Even the right to move freely within the country was denied to black Namibians at some points in Namibia's history.

159. The Namibian Constitution ensures that the right to travel will never again by unfairly limited. The Constitution guarantees to all persons the right to move freely throughout Namibia, the right to reside and settle in any part of Namibia and the right to leave and return to Namibia (art. 21 (1) (g)-(i)). Reasonable restrictions may be imposed by law on the exercise of these rights, but only such restrictions as are necessary in a democratic society and are required in the interests of Namibia's sovereignty and integrity, national security, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence (art. 21 (2)).

E. Recovery of maintenance for the child

160. The Maintenance Act No. 23, 1963, a piece of South African legislation which is still applicable to Namibia, sets forth a simple procedure which can be used by both single mothers and divorced women who are legally entitled to maintenance for themselves or for their children. Under this law, any person who is legally entitled to maintenance needs only to make a complaint under oath to the maintenance officer at any magistrate's court; there is no need to incur the expense of obtaining legal counsel. The maintenance officer then has a duty to investigate the complaint, instituting a court enquiry if necessary. The court is empowered to make maintenance orders, to grant a judgement in the woman's favour for any money owing to her, and to punish a failure to pay with fines or imprisonment where necessary. The court also has the power to attach the man's wages if he is working. However, under the Act, a failure to make payments will not be punished where it is due to lack of

means which is not the result of misconduct or unwillingness to work; in other words, where the father or the ex-husband has no money because he is unable to find work, the court will not expect him to pay maintenance. (The Act is worded to apply equally to both men and women, but it is in practice used almost exclusively by women.) Thus, the law offers no solution for families who lack maintenance as a result of poverty.

161. The Act is applicable to women who are entitled to maintenance as a result of a customary marriage, as well as to women who are entitled to maintenance as a result of a civil marriage or as single mothers (sect. 5 (6)). However, the Act is only a mechanism to assist women in obtaining maintenance which a man is legally obligated to pay in terms of some other law; therefore, the question of whether there is a legal obligation to pay maintenance upon the dissolution of a customary marriage would depend upon the traditions of the relevant community.

162. There seems to be a fairly high level of awareness of the procedures available under the Maintenance Act in urban areas, particularly in Windhoek where there is a high volume of cases. However, the Act is reportedly not so well utilized in other regions.

163. There is no specific age at which a child becomes too old to be eligible for maintenance payments - the test is whether or not the child is in a position to support him- or herself independently.

164. Payments are made to the Maintenance Court and collected by the woman. The court sometimes issues garnishee orders, whereby the amount owing to the mother is deducted directly from the man's wages, particularly where he is employed in the public service or by a parastatal. Instances of non-payment have increased in recent months, possibly because of an increase in retrenchments from work.

165. One impediment to the enforcement of maintenance orders is the absence of a reciprocal enforcement agreement between Namibia and South Africa, as fathers frequently move over the border and cease payment. The negotiation of such an agreement was successfully concluded some time ago, but it has not yet been officially ratified by Parliament.

166. Statistics for the Maintenance Court in Windhoek show 770 complaints in 1990, 1,003 complaints in 1991 and 703 complaints from January-August 1992. Complaints are brought almost exclusively by women seeking support from the father of a child, mostly involving women who have never been married to the father.

167. In about 1 per cent of these cases, no maintenance order was given because of the man's inability to pay; for the most part, women who come to the Court know the circumstances of the men in question and do not seek the Court's assistance if they know that the man is unable to pay. Approximately 15 per cent of the complaints are withdrawn by the women who made them, for a variety of reasons. Another 15 per cent cannot be followed up because the man has left the country or cannot be located by the police.

In about 70 per cent of the cases, the Maintenance Court makes an order for maintenance payments to be made to the woman, sometimes on the basis of an agreement reached by the parties during the enquiry.

168. The amount of maintenance granted is based on the accustomed standard of living of the family in question. Orders for the years 1990-1992 in Windhoek have ranged from a low of about R20/month (US$ 7/month) per child for a rural-based family with few expenditures, to a high of about R150-$ 200/month (US$ 54-71/month) for a school-age child or R350/month (US$ 125/month) for a younger child. (The needs of younger children are often higher because the shortage of State pre-primary facilities leaves only the alternative of private pre-primary schools with higher fees.)

169. Statistics from the central region apart from Windhoek were not available, but the figures for the southern and northern regions indicate a much lower level of utilization of the statutory procedure. In the north, 361 maintenance orders were granted in 1991, and 375 from January-August 1992, with amounts averaging about R150/month (US$ 54/month). In the south, 183 maintenance orders were granted in 1991, and about 131 from January-August 1992, with amounts averaging only about R100/month (US$ 36/month).

170. Some women with children are eligible for maintenance grants from the Ministry of Health and Social Services under the terms of the Children's Act (sect. 89 (c)). Means tests are applied to determine eligibility for these grants, and at independence both the means tests and the amounts of the grants were determined by different sets of regulations for the different "population groups".

171. In general, the only categories of women eligible for these grants are single mothers, widows and women with husbands who are pensions, in jail, or unable to work for a period of time because of some disability. As of 1990, no grants at all were available in the northern regions, while in other regions, grants ranged from a high of R416-R844/month (US$ 149-301/month) for white mothers to R40-R67/month (US$ 14-24/month) for mothers of other races.

172. This outmoded system will soon be replaced, as the Government is in the process of preparing a new comprehensive package of social security benefits which will apply equally to all Namibians.

173. Where a children's court has determined that a child is a child in need of care, the Court has the power under the Children's Act (sects. 62-69) to make a contribution order directing a parent or guardian who has sufficient financial means to pay a specified amount of money to the Government to be applied towards the expenses of keeping the child in foster care, a children's home or another appropriate facility. Wages can be attached for this purpose.

F. Children deprived of a family environment

174. In terms of the Children's Act (sect. 1), a child can be declared by a children's court to be a "child in need of care" if the child:

(a) Has been abandoned or lacks visible means of support;

(b) Has no parents or guardians, or parents or guardians who do not, or are unfit to, exercise proper control over the child;

(c) Is in the custody of a person who has committed any of certain specified offences (such as assault, abduction or sexual offences) with respect to the child;

(d) Cannot be controlled by the person who has custody of the child;

(e) Is a habitual truant;

(f) Frequents immoral company or lives in circumstances likely to lead to seduction, corruption or prostitution;

(g) Begs or engages in unlawful street trading;

(h) Is being maintained apart from his parents or guardian in domestic circumstances which are detrimental to the child's interests; or

(i) Is in a state of physical or mental neglect.

If necessary, a child can be removed from the family environment to a temporary place of safety while the children's court makes an inquiry into the circumstances of the case (sect. 22 ff).

175. Where a child is found to be a "child in need of care", the child can be removed from the custody of his or her parent or guardian and be placed with foster parents or in a children's home, a school of industries or under the control of an approved agency. If the child is not removed from the custody of the parent or guardian, the situation may be placed under the supervision of a probation officer or a social worker (sect. 31).

176. Schools of industries are established and controlled by the State specifically for the reception, care, education and training of children. Private children's homes and private welfare bodies which qualify as approved agencies must be registered under the Act and must comply with a number of regulatory safeguards (sects. 39 (1), 42 and 48).

177. Foster parents are usually the preferred alternative for the placement of children in need of care. However, the children's court follow a policy of trying to keep siblings together, and it is often difficult to find foster parents who are willing to take large groups of children. Also, the allowances which are provided by the State for the care of foster children are unrealistically low.

178. Where a child is placed with a foster family, the goal is always to reintegrate that child into his or her own family - a process which the Ministry of Health and Social Services terms "reconstruction" - and so the family situation is periodically reviewed.

179. When foster parents cannot be found, children are sent either to a children's home administered or approved by the State, or, in the case of children who need stricter supervision, to a school of industries.

180. At present, there is only one State-run children's home in Namibia, the Namibia Children's Home located in Windhoek (which was until recently a private institution administered by the Dutch Reformed Church with the assistance of a State subsidy). This home has the capacity for some 112 children, and as of September 1992 was housing 44 boys and 58 girls between the ages of 2 and 19. Most of these children were taken out of their homes because of unsatisfactory family circumstances, usually tied to alcohol abuse by the parents, while a substantial number had behavioural problems and could not be controlled by their parents.

181. In addition, there are three private institutions which are registered as children's homes under the Children's Act and provide homes for orphans as well as children in need of care for other reasons. One is the SOS Children's Village in Windhoek, which has a capacity of about 87 children. Another home in Swakopmund houses about 160 children. There is also a new facility in Usakos which has taken in 7 children so far.

182. The distribution of these few facilities is somewhat problematic. As all places registered as children's homes are located in central Namibia, children from other parts of the country who need this form of alternative care must leave their home communities. However, most cases of "children in need of care" are at present arising in homes in the central region.

183. There is one school of industries in Namibia, at Otjizondo in the Okahandja district, which provides training in trades such as welding, carpentry and masonry for up to 85 boys. There is no similar institution for girls, and there are no reform schools for either sex in Namibia.

184. Statistics for the Windhoek magisterial district, which serves the nation's largest urban area, show that 103 children were found to be children in need of care in terms of the Children's Act in 1990, 148 children in 1991 and 77 children from January to August 1992 (with 8 more children being held in temporary places of safety pending investigation). Most of these cases involved alcohol or drug abuse by the parents, leading to physical and moral neglect of the children, either as a direct effect of the substance abuse, or as an indirect result of other consequences of substance abuse, such as unemployment. A few of these children were removed from the family environment because of sexual abuse.

185. Nationwide statistics are not yet available, but it is known that State authorities are seldom involved in problems of this nature in the rural areas, where children who are not receiving proper care from their parents or guardians are usually provided for by the extended family.

186. When a child is removed from the home environment, a social worker is assigned to both the child and the family. However, the counselling and support role provided by the social worker is limited at present because of a severe shortage of social workers in Namibia.

187. The Ministry of Health and Social Services has only 71 approved posts for active social workers, and only about 50 of these posts were filled as of September 1992. At that stage, there were an additional 5 social workers at the State hospital in Windhoek (as well as 3 unfilled vacancies in the State hospital at Oshakati), an additional 6-7 social workers employed by the Prisons Service, and a very small number of persons with training in social work devoted to specialized tasks in other ministries. A few social workers are also privately employed by church organizations.

188. In the Government, low salaries have been cited as one of the main disincentives to employment, as well as a cause of low morale among existing employees. Another problem is that it is difficult to find social workers who are willing to be based in rural areas, resulting in a disproportionate concentration of social workers in Windhoek.

189. There is a social work curriculum at Namibia's one institution of higher education, the Academy (which is in the process of being transformed into two separate institutions, the University of Namibia and a new polytechnic), so the absence of access to appropriate training is not the problem. Fourth-year students from the social work programme are required to obtain field experience, and so are sometimes available to supplement the State-employed staff.

190. In Namibia, there are an estimated 2,000 "street children" - children who make their homes on the street, not in most cases because they lack a family, but because family conditions are intolerable, usually as a result of extreme poverty.

191. A 1991 Government survey of 515 street children in three urban centres in Namibia (Rundu, Windhoek and Keetmanshoop) indicated that the typical street child in Namibia in black, male, poor and between 11 and 14 years of age. Almost all of the children surveyed had a family to which they returned on a regular basis, and most came from families of five or more children. About half of the children came from single-parent families, most of these being households headed by mothers, who are often more vulnerable than men to unemployment.

192. Most of the street children surveyed were on the street to earn money for food and other necessities for themselves and their families. About half of them were school drop-outs, and many came from families with a low standard of education. However, more than 70 per cent indicated that they would like help with their schooling.

193. Over 37 per cent of the children questioned stated that they smoked cigarettes or marijuana, and more than 41 per cent said that they used alcohol. This is probably an understatement of the real extent of substance abuse among street children, as more than 50 per cent of the respondents said that their friends drank and smoked. A few also admitted that they or their

friends sniff glue or petrol. About 44 per cent of the children surveyed stated that they have experienced ill-treatment or abuse from family members or peers.

194. The Ministry of Local Government and Housing responded to the street children problem by implementing a number of related programmes which served over 100 street children ranging in age from 8 to 23 in Windhoek, Rundu and Keetmanshoop. Temporary feeding schemes were established, with the support of the Red Cross and the help of donations of money and food from local businesses as well as other sources. An impressive 40 per cent of the identified street children in the three locations were reintegrated into normal schools, and another 3 per cent were enrolled in technical schools.

195. As part of a rehabilitation scheme, both parents and children were counselled and parents were mobilized around income-generating activities to help them improve the family financial situation. Alcohol and drug abuse by both children and parents are also being addressed.

196. There is at present an emphasis on more community involvement in rehabilitation and preventative processes, in an effort to stem the flow of new children onto the streets and to reduce the direct intervention of the Government. Attention is now turning away from the narrow category of "street children", to the broader categories of marginalized children and children in especially difficult circumstances, in an effort to focus attention on the underlying determinants of the "street children" phenomenon. There is also increasing interministerial cooperation on various aspects of the problem.

197. In Windhoek, 61 children between the ages of 6 and 23 have participated in the street children programme, including 8 girls. Only one of these children was actually without parents, and that child has since been adopted. Of the 8 girls, 7 were reintegrated into normal schools, but 4 have since dropped out because of pregnancy and are being assisted with income-generating projects. As for the boys, the younger boys were enrolled in normal schools, and the drop-out rate has remained low. Some of the older boys were enrolled in technical training courses, while about 16 boys in need of stricter supervision were sent to the school of industries at Otjizondo.

198. In Rundu, there were 16 children in the programme as of August 1992, all boys. Most were between the ages of 8 and 15, but there was also one 18-year-old. Not included in this number are 8 children who have already been reintegrated into normal schools. In Keetmanshoop, the programme has reached 33 children - 12 girls between the ages of 7 and 16 and 21 boys aged 11 to 21. All have been enrolled in schools with a high degree of success, but most are experiencing some difficulty in making up for lost years of education and adapting to a new environment.

G. Adoption

199. Adoption is governed by the Children's Act. There are four categories of persons who are eligible to adopt children: (i) a husband and wife jointly; (ii) a single person (unmarried, divorced, widow or widower); (iii) a married

person acting individually, where the spouse is mentally disordered or defective; or (iv) a married person acting individually, where the spouses are separated by judicial decree.

200. There are a number of rules concerning the age of the adoptive parents and the age of the adoptive child. The basic rule (sect. 70) is that the adoptive parent must be over the age of 25, and the child to be adopted must be under the age of 16 and at least 25 years younger than the adoptive parent. There are, however, a number of exceptions to this rule, and there is a particular degree of flexibility where the child to be adopted is related to someone in the adoptive family (for example, where a child is born to one of the spouses in a marriage and the couple wish to adopt the child jointly).

201. Consent to adoption must be given by the child's parents or guardian. In the case of a child born to a single mother, only the mother's consent is required. The consent of one parent is also sufficient where the other parent is dead, mentally incompetent or incarcerated as an habitual criminal, or where one parent has deserted the child (sects. 71 and 73). Parental consent may be dispensed with altogether where such circumstances apply to both of the child's parents. Where the child to be adopted is over the age of 10, the consent of the child must be obtained.

202. All applications for adoption are considered by a children's court, which may consider evidence on any matter which it considers relevant to the adoption. The court's primary consideration is whether the proposed adoption will serve the interests of the child. The court must satisfy itself that the adoptive parent or parents are fit and proper persons to be entrusted with the custody of a child, as well as being financially able to maintain and educate the child. The court is also expected to take into consideration the child's religious, cultural and ethnic background, although there are no hard and fast rules on this point (sects. 71 and 35 (2)).

203. Upon adoption, the child normally receives the surname of the adoptive parent and is treated as the natural child of the adoptive parent for purposes of inheritance from that point forward, although the adopted child does not have the right to inherit from any relative of the adoptive parent in the absence of a will to that effect. (This exception is balanced by the fact that the adopted child retains the right to inherit from the natural parents of their relatives in the absence of a will (sect. 74)).

204. At the request of the natural parents or guardian, adoptions may be carried out on the basis of non-disclosure, where the identity of the natural parents and the identity of the adoptive parents are not mutually known. The guiding criterion is whether non-disclosure will serve the interests of the child (sect. 71 (3)). Where the adoption is not granted on the basis of non-disclosure, the court may give the natural parents or guardian permission to visit the child during the first two years after the adoption takes place (sect. 75).

205. An adoption may be rescinded in three circumstances: (i) where a natural parent of the child applies for recision on the grounds that the adoption was improperly granted without his or her consent; (ii) where the adoptive parent of the child applies for recision on the grounds that the adoption was induced

by fraud, misrepresentation or error, or on the grounds that the child suffers from a mental illness or defect which existed at the time of the adoption; (iii) where an application for recision is made by a natural parent or guardian, by the adoptive parent or by the State on the grounds that the adoption is detrimental to the child (sect. 76).

206. The government officials who administer the adoption laws report that illegal adoptions are not a problem in Namibia.

207. National statistics on adoption are available. In the period from independence to the end of August 1992, 127 adoptions were registered nationwide, with about 70 per cent of these being the children of single mothers adopted at birth. In some cases such children are adopted by members of the extended family. In about 60 per cent of all adoptions, the identity of the biological parents is not disclosed to the child or the adoptive parents. There is generally no problem in finding adoptive parents for children of any race or sex, as there is a list of prospective adoptive parents.

208. Intercountry adoption is illegal in Namibia. In the case of any child born to a Namibian citizen, the applicant (or at least one of the applicants) for adoption must be a Namibian citizen resident in Namibia. The only exceptions are where at least one of the adoptive parents is a Namibian citizen and a relative of the child but resides outside the country, or where at least one of the adoptive parents is a permanent resident who qualifies for naturalization as a Namibian citizen and has in fact already applied for naturalization. Although these exceptions are extremely narrow, ministerial approval is also required in such cases (sect. 71 (2) (f)).

H. Illicit transfer and non-return

209. Very few instances of this problem are reported in Namibia, although this does not necessarily mean that the problem does not exist.

210. As a newly independent country, Namibia is still in the process of entering into international agreements on various topics. The Government is still awaiting a list of the agreements entered into on behalf of Namibia by the South African administration, as such agreements remain binding on Namibia in terms of article 143 of the Namibian Constitution, unless they are specifically repudiated by Parliament. Namibia is also in the process of negotiating extradition treaties with South Africa and Botswana, a step which would help to make redress possible in the case of children illegally taken abroad.

211. Although Namibia is not a party to any specific international agreements on the issue of kidnapping, the Ministry of Foreign Affairs is keeping abreast of international developments in this area.

I. Protection from abuse and neglect

212. As already discussed, a child who is determined to be a "child in need of care" because of physical or moral neglect by parents or guardian can be removed from the family environment and placed in alternative care.

213. The Children's Act (sect. 20) also sets forth specific procedures to cover cases of medical neglect. Whenever a medical officer has reason to suspect that a child is suffering from a disease or a curable physical defect, is infested with vermin, or is wearing filthy or verminous clothing, the child can be examined and given appropriate medical treatment of cleansing, without parental consent if necessary. If the child's parents or guardian fail to take proper action in such circumstances, they can also be found guilty of an offence.

214. Other forms of neglect, mistreatment and abuse are covered by a variety of criminal offences. The Children's Act makes it an offence for any person having custody of a child to ill-treat, neglect or abandon that child in such a way that unnecessary suffering or injury to the child's mind or body is likely to result. It is also an offence for any person who is legally liable to maintain a child to fail to provide that child with adequate food, clothing, lodging and medical aid.

215. The offences relating to exploitation and sexual abuse are discussed in detail below (see sect VIII C). It should be noted here that there are special offences which apply to situations where parents encourage, or even knowingly allow, sexual exploitation (Children's Act, sect. 19).

216. Enforcement in this area is a problem, as there is a general public hesitancy to intrude into "family matters". Thus it is difficult to make an accurate estimate of the extent of child abuse and neglect in Namibia.

217. Although nationwide statistics are not available, it is known that more than 100 children are removed from family homes to alternative places of care annually (see sect. V F above). However, it has been estimated by the Namibian police that less than two dozen cases of parental abuse or neglect come to the attention of the police each year. In the first half of 1992, 42 cases of child neglect came to the attention of the Ministry of Health and Social Services, along with three cases of battered children. Sometimes problems of this nature are handled within the confines of the extended family, or taken to churches in the community rather than to government officials.

218. Child Life Line, a private telephone counselling service which is active in Windhoek, Tsumeb and Oranjemund, sometimes receives calls regarding ill-treatment or abuse. Since the Windhoek line began operation in October 1991, it has received more than 20 calls about general family problems, as well as 4 calls regarding child abuse and 4 calls relating to rape or sexual abuse.

219. There is a need to sensitize teachers and others who come into contact with children regularly to the signs and symptoms of abuse and neglect to ensure that these problems do not go unheeded. The Children's Act also needs to be updated on this point.

220. Plans are under way to establish a network of trauma centres in Namibia for women and children who are victims of crimes which cause severe psychological trauma, such as rape and sexual abuse, as well as other varieties of child abuse. Cases involving missing or runaway children might also be handled. The idea is to establish specialized centres for women and children which will be open 24 hours a day, with a doctor and a social worker on call.

221. In such centres, victims can receive individual attention from medical personnel who are familiar with such forms of abuse, meaning that victims will be treated more sensitively and evidence gathered more effectively than under the present approach, where victims of abuse usually join the general queue at State hospitals and police stations. At the specialized trauma centres, statements will be taken in private, by specially trained police personnel, and a social worker can be assigned to the case from the very beginning. In addition to serving the needs of women and children who have suffered violent and traumatic experiences, the establishment of such trauma centres may encourage the reporting of more of the crimes which affect women and children.

222. Child abuse and neglect are part of a larger set of problems - including poverty and unemployment, particularly in households headed by a single mother, as well as alcohol abuse by parents or caretakers. As already emphasized, families have suffered particular strain as a result of colonial policies and the conditions of war.

223. This set of problems will be tackled by the new Family Life Empowerment Programme discussed above, which will attempt to strengthen deprived families on a variety of fronts. General improvement of the family situation should produce a dramatic decrease in the neglect and mistreatment of children.

224. Poverty and family problems are the major factors in driving children into earning a living on the streets, and Namibia's "street children" programme is also emphasizing family empowerment and community involvement in its efforts to reintegrate these children into a normal family and school environment.

J. Periodic review of placement

225. It is State policy to require periodic review of all placements of children in need of care by a probation officer or a social worker, but in practice the expected support and evaluation is not always forthcoming. This is due in large part to the aforementioned shortage of social workers in Namibia.

226. As noted above, an adoption can be rescinded at any stage if the adoption is determined to be detrimental to the child.

VI. BASIC HEALTH AND WELFARE

A. Survival and development

227. At independence, there was little reliable data on the indicators of child survival and development, a symptom of the relative neglect of these issues during the colonial era. However, data collected shortly after independence gave clear cause for concern about child survival and development.

228. A 1990 UNICEF survey of sample populations in both urban and rural areas indicated that for every 10 or 11 Namibian children born alive, one will die before his or her fifth birthday. The same survey indicated that one Namibian woman in every 250-300 dies each year from pregnancy-related causes, and that approximately 1 out of every 46 female Namibians will die from pregnancy-related causes.

229. In 1990, more than 12 per cent of all children born in Namibia's four major regional hospitals had a low birth weight (under 2.5 kg). Furthermore, it was estimated that at least one third of all Namibian children under five years of age suffer moderate to severe malnutrition.

230. The most common causes of death for children in Namibia are preventable - diarrhoea, malaria, measles, acute respiratory infections and tuberculosis. Yet at the end of 1990, even after an intense immunization programme had already been launched by the new Government, only 26 per cent of all children below one year of age were found to be fully vaccinated.

231. AIDS is also an increasing problem in Namibia. In 1986, there were only four reported cases of HIV infection, but 543 cases of HIV/AIDS were recorded in 1990, 1,261 in 1991 and 914 in only the first six months of 1992. The reported cases involve slightly more men than women, and the vast majority of reported cases are in the 15-44 year age range - the most active age group in terms of reproduction and economic activity. About 12 per cent of all cases reported since 1990 involve people in the 15-24 year age range, while about 4 per cent involve children under the age of 5. These figures, alarming as they are, are believed to underestimate the true extent of the problem.

232. The welfare of children in Namibia at independence was influenced by a host of underlying factors. For example, the situation of women and the practical problems experienced in female-headed households had a strong influence on child survival and development. A 1990 survey in the Ovambo region revealed that mothers in female-headed households experienced particular problems with breast-feeding - they were often forced to introduce solids at an early state, or to give up breast-feeding altogether, in order to supplement their income with formal or informal sector employment, while at the same time having limited amounts of money for the purchase of nutritious weaning foods.

233. Another example of this connection is the fact that childhood malnutrition in northern Namibia reaches a peak between November and February, and then again between May and June, despite the fact that during the latter period harvesting has begun and food availability is relatively high. The

reason for the peaks is that these are the times when rural women work the hardest - planting in November to February and harvesting and storing from May to July - and so have little time left to feed young children.

234. The nexus of factors which must be addressed to ensure child survival and development also includes education, unemployment, water and sanitation, alcohol abuse, and persisting racial inequities with regard to income, to cite only a few of the most pressing problems which have a direct impact on health and welfare. Clearly, the challenges to child survival and development which must be confronted by the new Namibian Government are formidable.

235. As discussed in detail above, the Government of Namibia has shown a remarkably strong and consistent commitment to ensuring the survival and development of children. As the ensuing sections will show, a remarkable amount of work in the area of health and welfare has been accomplished in the short time since independence. Part of this success is attributable to the recognition that the welfare of children is a function of a nexus of interrelated factors, which have been brought together for action in programmes such as Primary Health Care/Community Based Health Care, the Family Life Empowerment Programme and the Early Childhood Protection and Development programme.

236. The National Programme of Action for Children sets the following goals in the area of survival and development:

(a) Reduction of infant and under five child mortality by at least one third by the year 2000;

(b) Reduction of maternal mortality rates by 50 per cent of 1990 levels; and

(c) Reduction of malnutrition among under five children to 50 per cent of 1990 levels.

237. New information-collecting methods are being implemented by the Ministry of Health and Social Services to ensure that Namibia's progress in achieving its goals in the health field is carefully monitored. The Health Information System has been completely restructured and computerized, to facilitate nationwide compilation and analysis of relevant statistics. This new system has been in place for only a few months, however, so it has not yet produced a significant amount of data.

238. A national demographic health survey is also under way. The information collected by this survey will include detailed data on maternal and child morbidity and mortality, immunization, breast-feeding practices, nutritional status and specific diseases.

B. Disabled children

239. It has been estimated that there are as many as 170,000 disabled persons in Namibia, although no precise information is yet available and there are widely varying estimates which rely on different definitions of disability.

It has been estimated that there may be a total of more than 69,000 disabled children in Namibia, under a broad definition of "disability":

Intellectual	10 000
Language, speech, hearing disorders	30 000
Visual (blind and partly sighted)	5 000
Physical/neurological	15 000
Behavioural problems	3 500
Multiple disabilities	2 000
Medical (needing constant medical attention)	4 000
TOTAL	69 500

Source: Ministry of Education and Culture, Directorate of Special Education

The 1991 nationwide census included questions about disabilities, so more information about the disabled will be available as soon as the census results are released.

240. The Ministry of Education recently conducted a survey of disabled children in the 0-23 age group. Although the results are not complete, the level of response was high enough to make the numbers obtained indicative of the total picture. Of the 8,597 disabled children identified in the survey, there were 6,428 disabled children in mainstream courses, 878 disabled children in special schools and 1,291 disabled children not attending school at all. The survey responses indicated that the 6,428 children in mainstream classes included children with the following disabilities: deaf-199, hearing problems-614, blind-130, visual problems-1,124, epilepsy-273, severe physical handicap-236, mental handicap-326, severe learning problem-2,559, speech disorders-967. The 878 children in special schools included children with the following disabilities: deaf-144, hearing problem-36, blind-47, visual problems-48, epilepsy-20, severe physical handicap-25, mental handicap-330, severe learning problem-152, speech disorders-76. The 1,291 children not attending school included children with the following disabilities: deaf-105, hearing problems-132, blind-18, visual problems-144, epilepsy-127, severe physical handicap-139, mental handicap-161, severe learning problem-301, speech disorders-164.

241. Namibia has few facilities and services for disabled children partly because the colonial administration relied on schools and institutions in South Africa. Most of the few facilities which were available locally were open only to white children prior to independence.

242. In 1992, there were six State and State-supported facilities for disabled and problem children:

(a) The Eluwa Special School in the Ondangwa region which in 1991 served 66 blind children, 180 deaf children and 5 children with other disabilities, with 21 teachers and 29 support staff;

(b) Moreson Centre for the severely handicapped and mentally impaired, with about 50 children;

(c) Dagbreek Centre for the severely handicapped and mentally impaired, with about 50 children;

(d) Eros Girls School for learning-impaired girls, with 250-350 pupils;

(e) Pioneer School for learning-impaired boys, with 250-350 pupils; and

(f) Otjizondo School of Industries for boys with behavioural problems, which had an enrolment of 76 boys in 1992.

In addition, there are several private and church-run facilities for disabled children. There is no counterpart to the Otjizondo School of Industries for girls with behavioural problems, but plans are under way to convert an existing government property into a similar institution for girls. There are no State or private facilities which focus on the training and care of disabled children of pre-primary age, a serious gap for children who need particular attention at an early stage.

243. Shortly after independence, the Ministry of Lands, Resettlement and Rehabilitation travelled throughout the country to consult with disabled persons on their needs and expectations. A subsequent consultative workshop led to the formation of the National Organisation of Disabled People in Namibia, a non-governmental organization which acts as a spokesperson for the disabled. Another workshop in October 1991, aimed at sensitizing policy makers from various sectors to the needs of the disabled, resulted in the formulation of a National Plan for Rehabilitation and Integration of Disabled Persons which was adopted by Cabinet in 1992.

244. The Government's strategy on disabled children focuses firstly on prevention, through steps to improve maternal and child health, immunization, home safety campaigns, the prevention of vitamin deficiencies, and corrective physiotherapy.

245. Detection and rehabilitation will be a component of the training of community-based primary health care workers, but there is an urgent need for more institutional support and back-up in this area. There is a plan to establish a nationwide network of referral centres which could provide screening and treatment services. There will also be an emphasis on community-based rehabilitation, for example by training parents on how to help disabled children at home, by providing counselling support for families with disabled children, and by training community-based rehabilitation workers.

246. In the area of education, the Government's policy is to integrate disabled children into mainstream education in so far as possible, and, where necessary, to provide special schools or special education units at ordinary schools. Employment opportunities for the disabled will be increased through vocational training programmes and self-help projects, five of which have already been established in various regions with the help of donor support.

247. An Institute for Special Education is in the planning stages at the Ministry of Education and Culture, and is expected to include diagnostic, therapeutic, school and hostel facilities for various categories of disabled children. This Institute would perform screening services to identify appropriate strategies for particular children and conduct teacher training in special education, as specialized training in this field is not offered at any Namibian institutions at present. However, donor funds for the establishment of this Institute are still being sought.

248. The Government is also planning to establish a Resource Centre for Occupational Training, which will be based in Windhoek with a nationwide outreach programme and will serve persons aged 15 and above. This project will be implemented in collaboration with the International Labour Organisation.

249. A public awareness campaign on disability has already begun, and a workshop to draft new disability legislation is planned for early 1993.

250. A major constraint to implementation of these plans is that programmes for the disabled are extremely costly and personnel-intensive, meaning that donor funds will be necessary if the Government's plans can be implemented. Outside funds will also be needed to make more public facilities accessible to persons in wheelchairs.

251. There has been some confusion about the delineation of responsibilities between the various ministries involved in working with disabled children and adults - which include the Ministry of Education and Culture, which takes responsibility for the education of disabled children from age 6 to 23, the Ministry of Health and Social Services, and the Ministry of Labour and Manpower Development. The Division of Rehabilitation in the Ministry of Lands, Resettlement and Rehabilitation is supposed to coordinate the provision of rehabilitation services, but has only four staff members to cover the entire country.

252. Another constraint is cultural attitudes. Disability is sometimes seen as a "curse" on the family, and there is a particular reluctance to educate disabled girls in some communities. The Government plans to address these problems through its public awareness campaign, and by providing more support and education for the parents of disabled children.

253. The new Labour Act prohibits discrimination against disabled persons in all aspect of employment - including recruitment, training, advertising for jobs, promotions, wages and conditions of employment, and dismissal. Disability is defined to include any physical or mental disability which impairs or restricts a person's preparation for, entry into or participation or advancement in any kind of employment or occupation. The Labour Act will be enforced by a network of labour inspectors and labour courts (sect. 107). This attention to disabled persons should facilitate their entry into Namibia's tight job market.

254. State social security payments are available to disabled persons who are at least 16 years old and have been medically certified as permanently disabled, meaning that they are unable to work at all. In the 1990/91

financial year, some 5,500 persons received disability pensions. Prior to independence, there were ethnically based differentiations in the amounts of these pensions, but at present all new recipients of social pensions are entitled to R120/month. Disability pensions will in all likelihood be part of the new social security package which is in the process of being formulated.

255. Namibia has received support from a number of international agencies in this area, including Oxfam and the International Labour Organisation. Namibia has also participated in action around the United Nations Decade of Disabled Persons and was represented at the recent World Congress of Rehabilitation International.

C. Health and health care

256. Prior to independence, the provision of health care services in Namibia was fragmented along political and racial lines. Specialized services for a minority of the population took up most of the health budget, while community-based health services were all but ignored. There was an emphasis on curative health services which were in theory available to all for a small fee, but in practice available only to a small portion of the population with favourable resources, education and geographical proximity to health facilities. Few State resources were devoted to preventive care, such as safe water, adequate sanitation and acceptable housing. Rural women and children were the most severely disadvantaged under this inequitable system.

257. Taken as a whole, Namibia has 5.6 beds per 1,000 people - substantially higher than the WHO recommendation of 2 beds per 1,000 people in sub-Saharan Africa - but this statistic is misleading, as the health facilities inherited by Namibia at independence were unevenly distributed and inefficiently utilized.

258. The Government of Namibia has identified the health sector as a high priority and adopted a policy of ensuring that basic health care is available to every Namibian. Since independence, Namibia's approach to health care has been completely reoriented, away from the pre-independence emphasis on curative approaches towards a new preventative approach based on the concept of primary health care. In moving towards this new approach, the Ministry of Health and Social Services has been assisted by UNICEF, WHO and a number of non-governmental organizations. Several countries have also sent medical personnel to help relieve temporary shortages.

259. The overarching goal in the health sector is the achievement of health for all Namibians by the year 2000.

260. The key programme in the switch to preventative health care is the Primary Health Care/Community Based Health Care (PHC/CBHC) initiative, which was launched by the President in February 1991. The goal of this programme is to empower communities, families and individuals with the knowledge, skills, attitudes and values necessary for the improvement of their own health and well-being. There are four basic principles underlying the PHC/CBHC approach: (i) that all Namibians shall have equal access to basic health care and social services; (ii) that services shall be progressively extended to reach all communities in Namibia, with special attention being given to disadvantaged

regions and to the training of community-based health care workers to reach isolated communities in rural areas; (iii) that primary health care services shall be provided free of charge to all Namibians, with fee structures for other services based on ability to pay; and (iv) that emphasis will be placed on community involvement, to ensure that communities control sustainable primary health care programmes in their own environments.

261. The PHC/CBHC approach is a multifaceted programme which will embody a range of initiatives - including the promotion of proper nutrition, access to safe and adequate water supplies, immunization against the major infectious diseases, basic housing and sanitation, the prevention and control of locally endemic diseases, community education and training, and appropriate treatment for common diseases and injuries. Maternal and child health and family planning are major components of the PHC/CBHC services.

262. The Ministry of Health and Social Services has been reorganized to include a Directorate of Primary Health Care, and a Primary Health Care Committee has been established as a forum to bring together representatives from Government and non-governmental and international organizations. The PHC initiative was launched with a high-profile national workshop held in February 1991 in Oshakati, in Namibia's most populous northern region. To emphasize the commitment of the Government to the programme, the workshop was opened by the President of Namibia and attended by a range of policy makers.

263. Since then, a number of regional and district level workshops have been held to formulate PHC guidelines, and training for facilitators and trainers is under way, to prepare them for organizing workshops to raise awareness at a community level and training resource persons in each community. Pilot PHC programmes have been initiated in eight districts in various parts of the country, and implementation will be extended after the pilot programmes are assessed. A National PHC Committee including representatives from Government, churches and collaborating United Nations agencies meet monthly to evaluate progress in the PHC field. The PHC/CBHC approach is to be the vehicle for implementing all other health programmes, within the context of community involvement and intersectoral collaboration.

264. One of Namibia's most outstanding success stories in the field of health is the Expanded Immunization Programme (EPI), which has served as a spearhead for the shift of emphasis to primary health care. On 1 June 1990, President Nujoma announced a national commitment to achieving universal child immunization. This was followed by a two-week national immunization campaign launched by the Prime Minister. To underline his support for the initiative, the President personally administered polio vaccine in two parts of the country. This intensive commitment on the part of the Government was accompanied by wide press coverage, widespread national mobilization of the public, strong community mobilization, large-scale training of health personnel, and the acquisition of necessary equipment and vaccines. By December 1990, 26 per cent of children below one year of age were found to be fully vaccinated, already a significant improvement over the extremely low pre-independence coverage. But only one year later, in December 1991, the percentage of children fully immunized in their first year had already topped 70 per cent. The aim of the immunization programme is full

immunization of 80 per cent of all children against the targeted disease (measles, tetanus, tuberculosis, whooping cough, polio and diphtheria) by 1993, and 90 per cent by the year 2000.

265. As noted above, AIDS is emerging as an increasing threat in Namibia. The number of reported HIV/AIDS cases continues to rise at an alarming rate - 914 cases of AIDS/HIV were reported in the first six months of 1992 alone, representing an increase of 85 per cent over the same period in the previous year. This is estimated to be only a fraction of the actual incidence of the problem, as only a small proportion of the population has been tested. The main mode of transmission in Namibia is heterosexual intercourse, but there are an increasing number of cases in which the AIDS virus is being passed from mother to child.

266. In July 1990, the President of Namibia launched a National AIDS Control Programme which has already succeeded in raising public awareness about AIDS substantially, through widespread and innovative public education campaigns as well as training programmes and workshops for different sectors, including health care workers, school personnel and church and community leaders. The emphasis of the Programme is on community involvement, in prevention as well as in home-based care and community support for HIV-infected persons, persons suffering from AIDS, and children who are orphaned as a result of AIDS.

267. The efforts of the Government to combat AIDS have been assisted by the World Health Organization and by NANASO, the Namibia Network of AIDS Service Organisations, a group which promotes the coordination of AIDS work among Namibian non-governmental organizations.

268. A 1991 nationwide survey of 1,451 students randomly selected from all secondary school students aged 13 and above revealed an alarming degree of misconceptions about AIDS and HIV. Although 95.5 per cent of the students knew that AIDS kills and 81.4 per cent knew that there is no cure for the condition, there were a number of mistaken ideas about how AIDS is transmitted. For example, 23.4 per cent thought that there was a vaccine against AIDS, 45.9 per cent thought that HIV carriers often do not look and feel healthy, and 29.9 per cent thought that it was impossible to become infected after having sexual intercourse with an HIV carrier only once. Roughly one third of all the students surveyed thought that AIDS could be transmitted from kissing, sharing food and plates, mosquito bites, living with people suffering from AIDS, or using public toilets and swimming pools.

269. On the issue of prevention, 47 per cent of the students agreed with the statement that suggesting the use of a condom implies mistrust, and 46 per cent agreed with the statement that secondary students find it difficult to obtain condoms. The survey also showed that knowledge and attitudes about AIDS and sexual behaviour in general are significantly influenced by academic levels and region, illustrating the need to design AIDS-related curricula carefully.

270. Another national survey of 210 individuals, which included young people aged 15 and above as well as adults, produced broadly similar findings, although the sampling technique used makes it impossible to draw conclusions about particular age groups. For example, almost 90 per cent of all

respondents had heard of AIDS, and more than 80 per cent knew that it can be contracted through sexual intercourse. However, 16-19 per cent of all respondents thought that AIDS can also be transmitted by kissing and mosquito bites, while roughly 5 per cent thought it could be transmitted by sharing glasses or coughing. More than 17 per cent did not know how AIDS is transmitted, and 50 per cent thought that it is possible to tell if someone has AIDS by looking at them. When asked whether infected women can pass AIDS to their unborn children, 86.7 per cent of respondents said yes, but the enumerators felt that this statistic should be treated with caution as many responses seemed to be no more than educated guesses. Most disturbingly, although about 75 per cent of the respondents had heard of condoms, 70 per cent said that they never used them, and only 7 per cent said that they always use condoms. Almost 88 per cent of the respondents felt that they needed additional education about AIDS.

271. These survey results clearly show that there is still much to be done in the area of AIDS education. However, the Government is already in the process of taking steps to ensure that information about AIDS reaches young people in Namibia. For example, the Ministry of Youth and Sport recently consulted youth leaders about the effectiveness of existing informational materials and approaches in a "Youth Against AIDS" initiative, and a 10-day workshop to train youth leaders in "peer outreach" techniques was scheduled for September 1992 as a joint venture between the Ministry of Youth and Sport and the Ministry of Health and Social Services. Information on AIDS will also be a component of Family Life Education which is to be introduced into the school curriculum. Pilot projects involving teachers, students and their parents are already under way in target regions, to develop AIDS education in a way which is acceptable to communities in which sexual matters are traditionally not discussed.

272. AIDS is frequently featured on television and radio broadcasts and publicly discussed by prominent political and community leaders, including the President of Namibia. In September 1992, National AIDS Week was launched in Windhoek with concerts by a popular local musician and a short publicly performed drama on the dangers of casual sex produced by the National Theatre of Namibia. These performers will visit all regions in Namibia, to help local communities produce their own anti-AIDS plays in their own languages. These kinds of informational techniques are designed to appeal to all age groups. The effectiveness of these efforts will be assessed in a survey planned for 1993, for comparison with the previous survey results. AIDS education will also help to prevent the transmission of other sexually transmitted diseases, such as gonorrhoea and syphilis, which are believed to be widespread in Namibia.

273. The Government has also launched several other disease control programmes. For example, malaria is endemic in the northern regions. The incidence of malaria has been estimated at 473 cases per 100,000 population in the northern regions, and several hundred Namibians die each year from malaria, including many children. To combat this problem, the Ministry of Health and Social Services has launched a National Malaria Control Programme which includes treatment of existing cases, vector control and health education.

274. A Control of Diarrhoeal Diseases Programme aims at reducing mortality and morbidity from diarrhoeal diseases in under-5s. As of 1991, it was estimated that these diseases accounted for 20 per cent of all deaths in this age group, primarily as a result of poor access to clean water, poor sanitation and lack of knowledge about preventative measures. The programme will focus on prevention, as well as case management at health facilities and within the community. For example, as part of this programme, there has been widespread public education on oral rehydration therapy. Similar programmes are planned to address tuberculosis and acute respiratory infections, which are another leading cause of death in the under-5 age group.

275. Namibia's first National Safe Motherhood Conference was held in Windhoek in November 1991 to draw attention to health issues relating to women, pregnancy and childbirth. The conference drew about 200 participants, including government officials, community leaders and representatives of various women's organizations and youth groups, and was opened by the President of Namibia. One of the major functions of the conference was to initiate a process to formulate practical suggestions on a broad range of factors which affect maternal and child health. The conference focused on the connection between maternal health problems and the low socio-economic status of women in Namibia, recommending reforms in laws which discriminate against women, equal employment opportunities for women, State support for income-generating activities, improved access to land and credit, and improved access to water and sanitation facilities.

276. Another point of emphasis was the need to improve women's access to health services. It was noted that although more than 300 women die annually from complications related to pregnancy and childbirth, only 55 maternal deaths were recorded in Namibian hospitals during the period 1988 to 1990. The conference put forth several practical measures for increasing the utilization and effectiveness of ante-natal care, delivery assistance and post-natal care, including a recommendation for a training programme for traditional birth assistance.

277. Family planning was also addressed in the context of maternal and child health. It has been estimated that only 18 per cent of Namibian women use any form of contraception, with the lowest percentages of use occurring in rural areas. Reasons put forward for this low rate of use include cultural attitudes among both women and men, lack of adequate information about family-planning methods, the influence of the church, and mistrust stemming from the indiscriminate administration of injectable contraceptives such as Depo-Provera during the colonial era. A consequent problem is teenage pregnancy, which contributes to the school drop-out rates of adolescent girls and thus perpetuates a cycle of economically-disadvantaged single mothers. A low level of acceptance of condoms also contributes to the spread of AIDS. Among the suggestions for improving family-planning practices were community mobilization and the introduction of Family Life Education into the school curriculum.

278. The Safe Motherhood Conference also promoted the Baby and Mother Friendly initiative discussed below and recommended the involvement of communities, counselling services, schools and churches in combating AIDS and other sexually transmitted diseases. Other issues which were addressed by the

conference included particular problems experienced by the girl child, the need to improve adolescent health and combat drug and alcohol abuse by teens, and the importance of involving men in efforts to improve maternal and child health.

279. An intersectoral task force was established to translate the recommendations made at the conference into a practical plan of action, based on the advice of five technical subcommittees which have developed the recommendations in more detail. These subcommittees were expected to report back to the task force at the end of September 1992, and the resulting plan of action will be submitted to the Namibian Cabinet in due course.

280. There is limited information on breast-feeding practices in Namibia. Recent surveys indicate that practices differ from urban to rural areas. A 1990 UNICEF survey of rural and peri-urban areas in the Ovambo region found that 97 per cent of children aged 0-6 months were being breast-fed, dropping to 50 per cent of those aged 13-18 months and 20 per cent of those aged 19 months and above. Earlier studies conducted in urban Katutura and two small southern towns found that only 54 per cent of 3-month-old babies were being breast-fed, declining to 15 per cent by the age of 12 months. Unfortunately, the practice of breast-feeding seems to be declining among younger women.

281. There is also evidence that complementary solids tend to be introduced earlier than the generally recommended four to six months. General levels of poverty, combined with the current drought conditions, also make it probable that weaning foods may be insufficient in many households. Important factors behind poor breast-feeding practices are overwork of mothers in rural areas, the constraints of mothers in formal wage employment in the urban areas, and the prevalence of female-headed households throughout the country. In addition, breast-feeding has not been adequately promoted in the past, and bottle milk formula is attractively advertised.

282. Breast-feeding, along with other aspects of child and maternal nutrition, will be addressed to the new Baby and Mother Friendly Initiative, which aims to have 75 per cent of all Namibian mothers practising exclusive breast-feeding for the first four to six months by the end of 1997. The initiative will promote baby friendly conditions at health facilities, workplaces and in the home environment. For example, hospitals will be encouraged to adopt policies which support breast-feeding from birth, and workplaces will be encouraged to arrange work schedules to facilitate breast-feeding where possible, and to establish "Baby Friendly Corners" to encourage working mothers to express and store breast-milk. Families will be encouraged to reduce the workload of mothers at home during the child's early months. The initiative will also promote the adoption of a national code regulating the marketing of breast-milk substitutes.

283. The Baby and Mother Friendly Initiative is part of a global approach to improved child nutrition, which encompasses primary health care, growth monitoring, school feeding, the inclusion of information about nutrition in school curricula, and the drought relief programme described below. However, low-income levels are the major constraint to adequate nutrition.

284. Overall resources available to rural households, particularly those headed by women, are very low. A 1990 UNICEF survey found that average annual per capita incomes in rural areas in the Ovambo region were about US$ 102. While 33 per cent of the male heads of households surveyed had access to formal employment, only 13 per cent of female heads of households had access to formal employment and less than 1 per cent of female heads of households had access to informal sector employment. As a result, these households were reliant on subsistence farming, which is characterized by low levels of productivity, supplemented in some cases by remittances from other family members of State social security payments such as old-age pensions.

285. While household incomes were found to be considerably higher in urban Katutura, averaging US$ 580 overall, the average incomes in female-headed households amounted to only half of the income received in male-headed households. While 80 per cent of male family heads received wages or were self-employed, this was true of only 58 per cent of female family heads. The result is that in many households, particularly those headed by women, there is not always enough money to purchase basic food requirements. The Household Food Security Programme which is being sponsored by UNICEF, will attempt to combat this problem. The aim of the programme is to increase food security through the social, economic and technical empowerment of women, the reduction of women's workloads, the improvement of their ability to manage domestic and community resources, and the encouragement of women's participation in community, group and income-earning activities. The initial phase of this programme will include rural development projects for women, support for income-generating activities for women in both rural and urban areas, and efforts to improve the Government's capacity to monitor household food security through improved information systems.

286. The issue of abortion is receiving a good deal of attention in Namibia at present. Under current laws (Abortion and Sterilization Act No. 2, 1985) legal abortions may be obtained where the pregnancy is a result of rape, incest, or unlawful sexual intercourse with an imbecile or idiot; where a continuation of the pregnancy will endanger the mother's life, or her physical or mental health; or where there is a serious risk that the child will suffer from a serious mental or physical defect which will make the child irreparably handicapped. The existing law has been interpreted to allow for legal abortions in cases where the expectant mother is HIV-positive.

287. The legal grounds for abortion are not widely known. Permission is granted for about 50 legal abortions each year, and there is no reliable informaton on the incidence of illegal abortions. Related to the abortion issue is the fact that there have been a few highly publicized cases of infants being abandoned at birth in recent years.

288. Debate on the abortion issue was sparked by administrative amendments to the abortion law proposed by the Ministry of Health and Social Services in mid-1992. A group of women's organizations, alerted to the impending amendments by the Department of Women Affairs, successfully lobbied for the tabling of these amendments until the issue is more widely discussed. The question is a sensitive one in Namibian culture, and much more discussion will be needed, particularly at a grass-roots level, before it will be possible to gauge opinions accurately.

289. The Government is taking steps to improve the distribution of health facilities. For example, in the 1990/91 financial year 1 hospital and 16 PHC clinics were opened and 3 hospitals were renovated and extended. As of December 1991, Namibia had 250 health facilities - including one national referral hospital in Windhoek, 5 regional hospitals and 31 district hospitals - and 870 visiting or outreach centres.

290. Prior to independence, Namibia's water and sanitation services were biased towards the provision of high-quality services for urban centres and commercial farms. Since independence, there has been a shift in emphasis to meeting the needs of rural communities and the urban poor. Figures for the country as a whole indicate that, as of 1990, 53 per cent of Namibia's population had no secure access to clean water and 77 per cent had inadequate sanitation facilities. The situation in rural areas is even more alarming; a United Nations study estimated that in 1990, 70 per cent of the rural population in the communal farming areas lacked secure access to clean water, while 90 per cent lacked adequate sanitation facilities.

291. In many rural areas, the workload of women is substantially increased by the long distances which must be travelled to collect water. For example, a 1990 UNICEF survey in the Ovambo region found that the average journey time to collect water in the dry season was 1 hour and 42 minutes, with some families having to travel up to 3 hours a day to meet domestic water needs. Water is scarce in Namibia at the best of times, but the current drought has created a crisis situation.

292. Even where clean water is available, there is still a risk of contamination at the point of collection in many cases. For example, inadequately protected and poorly maintained outlets for piped water in some rural areas leads to unsanitary spillage and leakage. Humans and livestock must sometimes compete for water at overcrowded water points. In addition, home storage and handling practices are sometimes unhygienic because of inadequate public information. The health risks posed by water and sanitation problems are obvious, with Namibia's children being a particularly vulnerable group.

293. The long-term policies of the Government are to make essential water supply and sanitation services available to all Namibians at an affordable cost, to distribute these services equitably, and to ensure active community involvement. Communities will have the right to determine the solutions and service levels which are acceptable to them, coupled with a responsibility to contribute towards the cost of these services in accordance with their available means.

294. In order to develop a coordinated strategy, the Government has established an intersectoral Water Supply and Sanitation Policy (WASP) Committee. New water sources are already being developed, and rural water point committees are in the process of being established. Training and education programmes on sanitation are underway, and a manual highlighting sanitation issues has already been prepared for the training of rural extension workers. Toilet facilities have been added to many rural schools and VIP latrines have been introduced in some areas. In all new

projects, emphasis is being placed on appropriate, low-cost technology. The Government's short-term target is to bring safe water to an additional 18 per cent of the rural population by 1996.

295. One programme which is still in the planning stages in the health field is a new School-Adolescent Health Programme, which will address the specific social and health problems experienced by youth of this age, including drug use, alcoholism and teenage pregnancies. Successes in this area may help to reduce school drop-out rates. This programme is to be a cooperative venture of the Ministry of Education and the Ministry of Health and Social Services, and it will include Family Life Education in the schools as one of its major components. A conference at the end of September 1992 will draw on local and international expertise to formulate a plan of action for this programme. However, financial support for its implementation is still being sought.

296. The programmes aiming specifically at health are being supplemented and supported by the integrated approaches to the welfare of children and families embodied in the Early Childhood Protection and Development Programme and the Family Life Empowerment Programme both of which have already been described.

D. Social security and child-care services and facilities

297. Prior to independence, the few social security benefits offered by the Government - such as old-age pensions, disability pensions and limited maintenance grants for single mothers - involved differential amounts calculated on an ethnic basis. While the amounts being paid to existing beneficaries have not been reduced, new social security benefits have been equalized at the lower end of the scale. For example, prior to independence, old-age pensions - which constitute a major source of income for many extended families - ranged from a high of R382 per month (US$ 136 per month) to a low of R55 per month (US$ 20 per month) in the northern regions. After independence, the new Government pegged the highest pensions at their existing rates and began slowly increasing those below. In October 1990, all new pensioners received R92 per month (US$ 33 per month) and the amount has since been raised to R120 per month (US$ 43 per month). Maintenance grants for mothers were completely unavailable in the northern regions, while elsewhere disadvantaged mothers might be eligible for R40-R67 per month (US$ 14-24 per month), depending on their situation. In the 1990/91 financial year, the budgeted expenditure for pensions and welfare grants was about R102.7 million (US$ 36.7 million).

298. A completely new social security package is in the planning stages at present. Among other benefits, this package is expected to include provision for expectant mothers on maternity leave for the first time.

299. The need for more child care facilities for young children is one of the needs most commonly cited by women in regions throughout Namibia. It has been estimated that although there has been a 30 per cent growth in the number of child care facilities since independence, still only a small fraction of Namibian children under the age of seven attend such programmes.

300. Child care facilities are technically governed by the Children's Act as "places of care", which are defined as any premises maintained for the temporary care of more than six children apart from their parents for profit or otherwise. The regulations promulgated under this statute require that all such places of care register with the Department of Health and Social Services. Applications for registration must be accompanied by a certificate from the responsible local authority stating that the buildings, general health facilities and services comply with the "required standards". These standards are at present contained in a South African manual which sets forth requirements that are far too ambitious for most Namibian child care facilities. As a result, few child care facilities actually register, and non-compliance with this requirement is officially tolerated.

301. In practice there is a wide variance in programmes and equipment, as well as in the training and experience of teachers and care-givers, and overcrowding is a common problem. The shortage of affordable facilities creates pressure on existing facilities to take in large numbers of children. There is also some confusion about the distinction between child-minding services and pre-school programmes, due in part to the inconsistent use of terminology; child care facilities are known variously as kindergartens, pre-schools, crêches, day mothers and day care centres, and there is not always a clear distinction between those which offer an educational programme and those which do not.

302. New standards for child care facilities which are appropriate to Namibian conditions are being developed, and responsibility for the registration and supervision of child care facilities is being transferred from the Ministry of Health and Social Services to the Ministry of Local Government and Housing, in line with a new clarification of the areas of responsibility of the various ministries involved in children's issues.

303. Until recently, policy-making around the issue of child-care has been hampered by a lack of practical data on facilities available for children below primary school age. However in 1992, the Ministry of Education and Culture and the Ministry of Local Government and Housing, in collaboration with UNICEF, conducted a nationwide survey of 236 pre-school and day-care centres. Of these 236 facilities, 69 (or almost 30 per cent) had been established since independence. A total of 12,482 children were enrolled overall (49.5 per cent boys and 50.5 per cent girls), with an average of 53 children per centre. The predominant age groups served were 3-6-year-olds, and fees or child-care of these facilities ranged from zero to R200, with the majority being under R20 per month.

304. Of the 236 facilities surveyed, 61 were sponsored by the Governmet, 107 were private, 43 were sponsored by churches and 26 by non-governmental organizatons. Only 61 of the facilities were registered with the State. The primary reasons cited by parents in all regions for bringing their children to the facility was preparation for formal education, while only a few parents said that they utilized such facilities primarily because they were employed and unable to provide child-care themselves. Commonly cited problems were the lack of adequate physical facilities and teaching materials, and the lack of funds to supply proper food for the children during the day (as children often come in the morning without having eaten). Recommendations frequently cited

by the personnel staffing existing facilities included the need for more day-care centres and pre-schools througout the country, the need for more government support, and the need for a more formalized pre-school syllabus.

305. Child-care facilities at the workplace are virtually non-existent in Namibia, making it difficult for working mothers to continue breast-feeding. The new Labour Act does not specifically address the issue of child care, or require flexible schedules for breast-feeding.

306. In the rural areas, the burden of child care often falls upon grandparents or older siblings, particularly girls - creating a situation which may interfere with their ability to continue their education and thus perpetuating a pattern of disadvantage for women.

307. Participants at the conference on Early Childhood Protection and Development held in Windhoek in May 1992 included several specific points about child care among their recommendations. The conference suggested that the Government should:

(a) Strengthen existing child care systems by providing more information, mobilization and support;

(b) Encourage more community involvement and self-reliance in providing home-based care for 0-3 year olds and pre-schools for 3-6 year olds; and

(c) Encourage large employers to institute flexible time arrangements and provide child-care services on the work premises, and ask all businesses to provide support to community-based programmes, especially in remote areas.

E. Standard of living

308. As noted above, the Government has pledged in the Namibian Constitution to raise and maintain an acceptable level of nutrition and standard of living for all Namibians, a commitment which has been followed up with concrete policies and substantial budgetary commitments.

309. As already noted above, under Namibian law, although a child's parents or guardians bear the primary responsibility for providing for the child, alternative provisions can be made by children's courts when the parents or guardians neglect this responsibility. The State has also established mechanisms to help parents with this task, such as the laws and procedures which help women to secure maintenance, as well as the forthcoming social security package which is expected to provide a number of benefits, including payments during maternity leave (see sects. V B-F and VI D above).

310. Family income is crucial to raising the standard of living. As already noted, Namibia inherited huge wage disparities such that the poorest 55 per cent of the population control just 3 per cent of the gross domestic product while the top 5 per cent account for an estimated 71 per cent of the gross domestic product (see sect. I above). In 1990, the International Labour Organisation estimated that about 43 per cent of the 550,000-strong labour force was in formal wage employment, with the rest being engaged in subsistence agriculture, informal sector activity, or openly unemployed.

In addition to an unemployment rate of 25-30 per cent, equivalent to 40,000-60,000 people, the estimated growth of the labour force is 3 per cent a year, meaning that there are about 15,000 new entrants into the job market annually.

311. The potential for rapid income generation is limited in many of the main sectors of the Namibian economy - including the public service, commercial agriculture, and mining - meaning that growth in other sectors will have to be exceptionally high just to prevent an increase in unemployment levels in the short-term. Informal sector activity will clearly continue to be a major source of household income.

312. A 1990 UNICEF survey of selected households helped to illustrate what the overall economic situation means for household resources at present. The average per capita annual income in the surveyed households was found to be R1,454 (US$ 519) for urban Katutura, R759 (US$ 271) for the peri-urban north, and R225 (US$ 80) for the rural north. One potential offshoot of these disparities is an increasing trend towards urbanization, which is already placing a severe strain on resources in the Windhoek area.

313. The Government is attempting to raise income levels in both the formal and informal sectors through a host of initiatives - including expanded rural development services, support for cooperatives and small-scale income-generating projects, the implementation of a new Labour Code which outlaws race and gender discrimination and establishes mechanisms to facilitate effective collective bargaining, literacy and education programmes, and the Family Life Empowerment Programme, to name but a few of the programmes in this broad field.

314. The Government has made a concerted effort to create a favourable climate for local and international investment, including tax incentives and initiatives to minimize red tape for potential investors. There is also an attempt to encourage investment outside of Windhoek, which is the main urban centre, to help discourage excessive migration to the capital in search of jobs.

315. The Namibian Constitution (art. 95 (i)) endorses the principle of a living wage for all workers. The new Labour Act does not provide for an overall minimum wage, but does establish procedures for setting minimum wages in particular sectors - for example, domestic workers and labourers on commercial farms have been mentioned as possible candidates for this approach.

316. Given the various structural constraints, improving family income levels is likely to be a long, slow and challenging process. In the short term, the supplementation of family income through pensions and other social security mechanisms will probably continue to be necessary in order to maintain minimally adequate standards of living.

317. Efforts to raise the status of women, who have historically suffered special discrimination in Namibia, are also central to the standard of living of families. A Department of Women Affairs was established in the President's Office shortly after independence as a focal point for women's issues.

318. Several legal reforms relating to women have already been put into place - for example, the Labour Act outlaws sex discrimination in employment practices and wages and provides for maternity protection, and discrimination against women in the tax laws has been completely eliminated. Namibia's recently established Law Reform and Development Commission is planning to make gender equality a priority, and is expected to facilitate reform in other areas, such as marriage, maintenance and inheritance.

319. New local government legislation passed in 1992 (Local Authorities Act No. 23, 1992, sect. 6) introduced the first affirmative action for women at a legislative level by including a requirement that party lists must contain a specified number of women, depending on the number of councillors to be elected. However, this will only apply to the first local authority elections, as subsequently elections will be held on a constituency basis. Mobilization of women around the local and regional elections scheduled for November 1992 is in full swing, in an attempt to ensure that women have a platform for making their needs known.

320. No affirmative action programmes for women have been formally implemented in the field of employment, although there has been a conscous effort to increase the numbers of women in the public service since independence. According to information from a 1988 "manpower survey", women accounted for only 33 per cent of employees in the formal sector and, of these, 46 per cent were domestic workers. Recent data indicates that there were 25,296 women (36.5 per cent of the workforce) employed in the public service in 1991 as opposed to 43,963 men (63.5 per cent of the workforce). Information from a post-independence "manpower survey" conducted by the Ministry of Labour and Manpower is not yet available, but, given the high overall levels of unemployment, it is possible that women have become even further marginalized in the formal labour market.

321. A number of income-generating initiatives aimed at the informal sector have focused on women. For example, the Department of Women Affairs has organized training for women wishing to set up small businesses, and the Ministry of Local Government and Housing has sponsored two women's brickmaking cooperatives and attempted to help provide markets for women traders. In the agricultural sector, the Ministry of Agriculture, Water and Rural Development has taken pains to ensure that its programmes are sensitive to the prominent role of women in agricultural production in the rural areas. As noted above, income-generating activities will also be a key component of the new Household Food Security Programme. However, women still do not enjoy equal access to productive resources, such as land and credit - a serious problem which must be addressed as a matter of priority.

322. At independence, Namibia was already suffering from severe drought conditions in some regions, and by 1992 the drought had become the worst of the century. The Government's response has been to establish an interministerial National Drought Committee to coordinate a response, which has centred around four components: supplementary food supplies for particularly vulnerable groups, community-based "food for work" projects, agricultural inputs and water relief. This programme has helped families to

continue to provide for their children during the drought emergency. An Early Warning and Food Information System has also been established to monitor the food situation carefully.

323. As of September 1992, donor countries had pledged a total of 34,200 tonnes of food aid, of which only 4,000 tonnes had arrived. The shortfall was being made up by commercial imports, but this was placing a strain on drought-affected households forced to rely on their own resources for the purchase of basic food supplies. However, assessments of the drought situation indicated that the Government's drought relief efforts have so far been successful in preventing a major deterioration in health conditions in the rural areas.

324. The plight of rural women during the drought received special attention from Parliament. One of Namibia's women parliamentarians noted that widows in many communities are particularly vulnerable because of traditional inheritance laws which discriminate against women, and proposed a motion to the effect that land, dwellings and food-related items should not be taken away from widows, and that fees normally paid to headmen when land is inherited by the widow and her children should be suspended for the duration of the emergency. This motion was passed unanimously, and Parliament has appealed for the cooperation of traditional leaders on this point.

325. The Government's objectives in the area of housing are to ensure that by the year 2000:

(a) At least 70 per cent of all Namibian families have shelter conforming to certain minimum standards (an increase from about 48 per cent of the population housed at this standard shortly after independence);

(b) All urban housing is upgraded with adequate sanitation and water reticulation;

(c) Seventy-nine percent of all squatter settlements have adequate water and sanitation disposal, and 50 per cent have electricity; and

(d) Seventy per cent of all rural houses have an adequate supply of potable water.

326. Impressive strides in addressing the acute housing shortage inherited at independence have already been made. For example, over 1,100 low- and middle-income housing units have already been completed nationwide in the 1991/92 financial year alone, and at least 1,000 more are expected to be completed before the financial year ends. This includes houses built by the Government and the parastatal National Housing Enterprise, as well as joint ventures with donor agencies and the private sector. It should be noted that there is an increasing emphasis on self-help housing projects. In addition, several other upgrading and squatter relocation schemes have been successfully completed since independence. However, the magnitude of the remaining problem should not be underestimated; the housing backlog has been estimated at 90,000 units.

327. Education in general will be discussed below, but one initiative which warrants special mention in the context of overall standards of living is Namibia's National Literacy Programme which was launched by the Prime Minister in September 1992.

328. At independence, it was estimated that more than half of all Namibian adults were illiterate, with a slight majority of these being women. The National Literacy Programme was developed by the Government over a year-long period, in consultation with churches, community groups, non-governmental organizations and the private sector. Namibia's goal is to banish illiteracy completely by the year 2000.

329. Literacy materials in English and 12 other Namibian languages will be supplied by the Ministry of Education and Culture to literacy groups organized by Government, or by a broad range of organizations outside Government. Literacy and basic numeracy in mother tongues will be the initial goal, followed by literacy and numeracy in English. Government literacy organizers will be deployed throughout the country, assisted by community-based promoters who will help to implement the actual training.

330. The programme is particularly remarkable for its gender sensitivity. Gender balance is a goal at every level of the literacy structure, and all literacy materials are to be scrutinized for their portrayal of gender roles, keeping the principle of affirmative action for women in mind. District literacy trainers have participated in a gender awareness workshop and organizers have been reminded that literacy classes must be held at times of day which are convenient for women with family responsibilities and that evening classes must be held in safe, well-lighted venues. Child-care facilities are to be linked to literacy groups where necessary.

331. The Speaker of Namibia's National Assembly, Dr. M.P. Tjitendero, emphasized the many links between literacy for women and the standard of living of the nation's children while opening a national seminar on literacy in May 1991:

> "Literate women are more likely to ensure that their children attend school. And since they are able to help their children at home, they will learn to read at an earlier age. It has also been found that the children of literate mothers enjoy better health on average, and this greatly affects their prospects in life."

VII. EDUCATION, LEISURE AND CULTURAL ACTIVITIES

A. Education, including vocational training and guidance

332. Prior to independence, education in Namibia was administered on an ethnic basis, with 11 separate education systems for persons according to the "population groups" identified by the colonial administration: Whites, Coloureds, Namas, Damaras, Ovambos, Kavangos, Caprivians, Hereros, Tswanas, Basters and Bushmen. This fragmented system was marked by severe disparities in the allocation of resources, with black schools being disadvantaged in the quality and quantity of the teaching force and the quality of school management, as well as in terms of physical infrastructure.

333. For example, during the 1970s the colonial administration spent six times more money on the education of the average white child than on that of the average black child. In 1977, there were only 14 senior secondary schools for blacks (who constituted over 90 per cent of the population) as compared to 92 senior secondary schools for whites. Educational expenditures per pupil, which varied for each "population group", ranged in 1986 from a high of R3,213 (US$ 1,148) per white pupil to a low of R558 (US$ 199) per Caprivian pupil. The effects of this racially discriminatory system on the performance of students is illustrated by the fact that between 1980 and 1990, the pass rates at the senior secondary school level were 88-95 per cent for whites, compared to 3-68 per cent for blacks.

334. The Namibian Constitution now prohibits such racial discrimination, and the promotion of equal access to learning is one of the primary policies of the Ministry of Education and Culture.

335. Since independence, all Namibian schools have been open to all children on an equal basis, regardless of race, colour, ethnic origin or creed. Remnants of racism remain an obstacle to the true integration of some of the former "white" schools, but the Ministry of Education and Culture is continuing to push for genuine desegregation.

336. There are still formidable constraints to making equal educational opportunities for all Namibian children a reality, but the Namibian Government has implemented a number of policies aimed at equalizing education services throughout the country. In general, it is the policy of the Ministry of Education to maintain existing standards at schools which were historically favoured, and to improve the learning environment at historically disadvantaged schools by strengthening the teaching staff, supplying additional library books and textbooks, and providing administrative and supervisory support services.

337. One serious problem which must be overcome is the shortage of well-qualified teachers. Of Namibia's total of 13,925 teachers, 5,009 have no teaching qualifications, and it has been estimated by the Ministry of Education and Culture that as much as 85 per cent of the teaching force is underqualified. Regional comparisons show that teachers without qualifications are concentrated in certain regions, such as the Ondangwa educational region, where more than half of Namibia's pupils are situated.

338. To address this problem, the Government has planned an In-Service Teacher Training Programme with the assistance of a UNDP/UNESCO/UNICEF team. This five-year programme is expected to reach approximately 10,000 teachers in all parts of the country. The first steps of this programme, which are already under way, include the training of trainers and supervisory personnel, the creation of teacher centres for school clusters and the development of methods to increase the English language proficiency of teachers. At present, steps are also under way to devise a standardized teacher training programme for new teachers.

339. Large class size is an additional barrier to effective education in some schools. In 1991, the pupil:teacher ratio in some former "white" schools was as low as 7:1, compared to an average of 50:1 in the rural areas. In the

Ondangwa educational region, for example, in 1991 there was one primary school class with 300 pupils and 1 teacher, and another with 279 pupils and 2 teachers. As one step to address such imbalances, the Ministry of Education has set the minimum number of pupils in primary school classes at 30, with a minimum of 25 at secondary school level.

340. Although regional parity has not yet been achieved, substantial improvements in the average pupil:teacher ratios are also evident from the 1991 figures. By the end of 1991, the nationwide average was 30:1, ranging from a low of 21:1 in the Windhoek and Keetmanshoop regions to highs of 29:1 in the Rundu region and 41:1 in the Ondangwa region.

341. The Government estimates that conditions at 90 per cent of Namibian schools are unsatisfactory. In addition to overcrowding, many schools in the rural areas lack basic textbooks and classroom equipment. Many of the schools themselves are dilapidated, and often lack toilet facilities. As interim measures to address the shortage of facilities, the Government has taken steps to ensure the full utilization of all schools (particularly the previously under-used "white" schools) and resorted to "double-sessioning" where necessary. As of December 1991, "double-sessioning" was in use at 80 schools, and a school mapping exercise was in progress to determine the most efficient size and placement of school facilities. In the 1991/92 fiscal year, the Government completed 160 new classrooms, 24 staff houses and 10 toilet blocks.

342. But even this colossal effort does not yet meet the needs of the rural areas. For example, in the Rundu educational region alone, 168 classrooms have been built since independence, but the total number of classrooms needed is estimated at 500. In an effort to address this backlog, in 1991 the Ministry of Education and Culture instituted an initiative to involve local communities in building school facilities and teacher housing. A pilot project of this nature currently under way at Uukwaludhi in Ovamboland is intended as a model for community involvement in other areas.

343. Primary education is compulsory and free for all Namibian children. As noted above, the Namibian Constitution (art. 20 (2)-(3)) makes primary education compulsory until the age of 16, or until the completion of primary education, whichever comes first, unless permission to leave school at an earlier stage on grounds of health or other matters pertaining to the public interest has been authorized by an act of Parliament. The Constitution also states that the State shall make this right effective for every person resident in Namibia by making primary education available free of charge at schools established and maintained by the State.

344. The constitutional provisions on education are supported by the National Education Act No. 3, 1980, which states that compulsory education for all children between the ages of 6 and 16 shall be the "ideal", but provides no mechanisms for enforcement. This statute also states that it shall be the "ideal" to make free tuition, including free books and stationery, available to all children in this age group.

345. A parent or guardian who fails to ensure that a child below the age of 16 attends school could perhaps be convicted of the offence of ill-treatment or neglect under the Children's Act. Neither ill-treatment nor

neglect is specifically defined, but either constitutes an offence under the act if any part or function of the child's mind or body is likely to be injured or detrimentally affected. It is also possible in theory that a child not complying with the compulsory education requirement could be declared to be a "child in need of care" under the Children's Act, which authorizes a children's court to make various orders to remedy the situation, such as placing the child under the supervision of a social worker or with foster parents.

346. With regard to the promise of free education, school fees are seldom charged, but even when they are, pupils who are unable to pay must be exempted. All fee increases require the prior approval of the Ministry. Hostel fees have been standardized throughout the country, and structured in such a way as to take into consideration factors such as the earnings of the parents, the conditions of hostels and the number of children from the family staying in hostels.

347. Pre-primary education, which is crucial to subsequent educational progress, is poorly developed in Namibia. Wide discrepancies exist between the former "white" schools and former "black" schools, and between the schools in rural and urban areas, in terms of facilities, materials, curriculum, class size, rates of absenteeism and teacher qualifications.

348. There are only a small number of Government-funded pre-primary facilities, due to the shortage of financial resources. As of 1992, State pre-primary facilities were as follows:

PRE-PRIMARY EDUCATION IN MEC SCHOOLS - 1992

Region	Schools	Learners	Teachers
Pre-primary schools			
Windhoek	29	1 869	87
Keetmanshoop	11	549	29
Khorixas	12	448	21
Rundu	23	1 380	30
Ondangwa	1	20	1
Katima	1	20	1
Bridging classes			
Windhoek	24	822	24
Keetmanshoop	1	25	1
TOTALS	102	5 133	194

Source: Ministry of Education and Culture, 1992.

349. The Government lacks the funds to expand its pre-primary programme. However, a number of community, church and private bodies are involved in pre-school initiatives, and Namibia's National Programme of Action for Children proposes that these facilities be registered with the State in terms of new legislation, and that the State provide support services in the form of trainers, teaching aids, and subject advisers.

350. A conference for representatives of Government and non-governmental organizations will be held in October 1992 to formulate guidelines for pre-primary education, and Namibia is drawing on the experience of several international consultants in this field.

351. At the primary level, there were some 339,179 pupils enrolled in State schools at the end of 1991. It is estimated that approximately 80 per cent of Namibian children of primary school age (7-13) are enrolled in school, but it appears that many of these children do not remain in school long enough to receive substantial benefits. Repetition of grades and absenteeism are also high.

352. The Ministry of Education and Culture has initiated a programme for the development of new instructional systems with the object of achieving greater efficiency in the outcomes of primary education. The most significant change has been to extend primary education from six years to seven years, to give pupils an opportunity to acquire a more solid grounding in basic skills. Curriculum changes at the primary level are still being developed, with changes expected to be implemented first at the Grade 4 level.

353. Compensatory and remedial education programmes are planned to reduce repetition rates, and drop-out rates and absenteeism can hopefully be reduced through educational reform as well as through improvements in family health and standards of living. The nation's goal is to achieve 95 per cent attendance at the primary level by the end of 1993.

354. At the end of 1991, there were some 72,286 pupils in State secondary schools. It is estimated that only about 25 per cent of Namibia's school-going population attends secondary school, with only about 5 per cent of the school population being at senior secondary level. Given this profile, the Ministry of Education and Culture has made curriculum reform at the junior secondary level a priority, and by 1993 a completely new curriculum will be in place for Grades 8-10.

355. High drop-out rates and absenteeism continue to be problematic and there is no easy solution, as they are tied to much larger social and economic problems. The Government has estimated that there are at least 30,000-40,000 children of school-going age who do not attend school. A 1990 survey of 50 schools throughout the country found that the primary reasons for dropping out were:

(a) Poverty and hunger;

(b) Lack of interest among parents;

(c) Need to help with domestic and agricultural tasks;

(d) Impact of the war;

(e) Pregnancy and early marriage;

(f) Living with relatives, inadequate care;

(g) Long walking distances to school.

356. One of the most significant steps to combat these problems is encouraging more community involvement in education. Communities, particularly in the rural areas, are being mobilized to take an active part in the schooling process. With the aid of churches and other community-based groups, communities are being taught to understand the importance of education, and to see school discipline as a community issue. Furthermore, it is the policy of the Ministry of Education and Culture that each school will have a School Board composed of equal representation from parents, teaching staff and students which will serve as an advisory and decision-making body, and one of the roles of these School Boards will be to solicit community participation in school administration and activities.

357. Another step which will help combat absenteeism is the revision of the school calendar from 1993 so that the month of May, in which school is now disrupted by four public holidays, will fall outside the school term. Longer school holidays in May and September under the new three-term system will also provide increased opportunities for teacher training programmes which do not disrupt the normal school schedule. Efforts to improve the managerial skills of school administrators should also lead to improvement in school attendance.

358. In February 1992, the President of Namibia personally opened the National Workshop on Marginalized Children organized by the Ministry of Education and Culture. This category of children was defined as including:

(a) Street children;

(b) Children of semi-nomadic parents;

(c) Children of communal farmers and commercial farm labourers;

(d) Child labourers on farms;

(e) Children of unemployed parents;

(f) Children of alcoholics;

(g) School drop-outs, as well as children prevented from attending school because of age, overcrowding of schools or teenage pregnancy;

(h) Disabled children;

(i) Children who look after livestock at cattle posts in the rural areas;

(j) Children of migrant labourers;

(k) Orphans;

(l) Children at road camps; and

(m) Children from poor and broken homes.

359. The Conference addressed the range of factors leading to these diverse instances of marginalization, and recommended this category of children as the target of specific educational policies, such as mobile schools, bridging courses, weekend schools, vocational programmes, self-reliance training, literacy training, and community empowerment programmes. The Ministry of Education and Culture is planning to implement a survey of marginalized children in order to produce more precise information to guide policy making in this area.

360. A comparison of educational statistics provides some measure of Namibia's progress in the educational field and gives an indication of persisting regional disparities which must be addressed. The following shows the nationwide increase in schools, pupils and teachers since independence:

Region	Schools (1990:1991)	Pupils (1989:1991)	Teachers (1989:1991)
K. Mulilo	77: 83	22 519: 24 209	796: 990
Keetmanshoop	82: 82	22 309: 22 886	1 062: 1 115
Khorixas	75: 80	25 179: 25 675	1 103: 1 160
Ondangwa	509: 566	193 438:225 006	5 151: 5 516
Rundu	247: 245	37 173: 40 760	1 318: 1 385
Windhoek	170: 173	77 223: 80 138	3 610: 3 759
TOTAL	1 160:1 229	377 841:418 674	13 040:13 925

Source: UNICEF/NISER Situation Analysis, compared to 1991 Annual Report of Ministry of Education and Culture.

361. As a background to the increase in the total number of pupils enrolled, it has been observed that pupil numbers rose steadily in the early 1980s, levelled off in mid-decade, decreased slightly between 1988 and 1989, and picked up again just before independence in 1990. The rise in enrolment in the early 1980s has been attributed to an increased awareness of the value of education, coupled with an increase in unemployment. However, later in the decade, students may have been discouraged by the shortage of facilities and qualified teachers, in addition to the disruption of schooling by the ongoing war of liberation, particularly in the northern areas of the country most directly affected by the war. In 1991, out of the total of 418,674 pupils enrolled, 49.5 per cent were boys and 51.5 per cent girls - although boys slightly outnumber girls in Grades 1-3, the balance shifts slightly towards girls around Grade 4, becoming marked during Grades 7-9, when girls make up 56-58 per cent of the total enrolment. Then, at Grade 11, when there is a marked decrease in overall enrolment from 15,914 pupils to 6,414 pupils, the

number of boys and girls equalizes, and boys then pull ahead again, constituting 53 per cent of the total enrolment in Grade 12. Overall enrolment figures are roughly equivalent for boys and girls in each region, and the overall gender pattern holds true for most regions; only in the Ondangwa region do girls outnumber boys by Grade 12.

362. There are marked regional differences in overall drop-out rates, however, which are particularly severe in the northern regions of Ondangwa and Rundu. The following chart indicates regional attrition rates and gender patterns in 1991:

SCHOOL ENROLMENT BY REGION AND GENDER - 1991

at selected grade levels

Region	Total pupils	Boys	Girls
K. Mulilo	24 209	52%	48%
Grade 1	2 724	51%	49%
Grade 7	2 081	51%	49%
Grade 12	645	67%	33%
Keetmanshoop	22 886	50%	50%
Grade 1	2 940	52%	48%
Grade 7	2 143	48%	52%
Grade 12	364	59%	41%
Khorixas	22 675	49%	51%
Grade 1	3 559	51%	49%
Grade 7	1 988	47%	53%
Grade 12	351	56%	44%
Ondangwa	225 006	47%	53%
Grade 1	58 177	52%	48%
Grade 7	14 678	40%	60%
Grade 12	618	40%	60%
Rundu	40 760	52%	48%
Grade 1	11 152	50%	50%
Grade 7	1 778	58%	42%
Grade 12	86	77%	23%
Windhoek	80 138	50%	50%
Grade 1	9 536	52%	48%
Grade 7	6 164	46%	54%
Grade 12	1 829	50%	50%

Source: Ministry of Education and Culture, 1991.

363. The overall pass rate (including all regions and all levels) was 67.7 per cent in 1991. Nationwide, over 19,500 students passed Grade 7 (54.8 per cent girls), while some 1,700 students passed Grade 12 (53.5 per cent of them boys). The largest regional variations were in the upper grades. For example, the pass rate at Grade 12 ranged

from a low of 7.7 per cent in the Rundu region (which produced only 2 matriculants), to a high of 70.3 per cent in the Windhoek region, which had over 1,000 matriculants.

364. The effects of apartheid education will be difficult to eradicate. One analysis of the 1991 results indicated that 50 per cent of all passes at the matriculation level and 81 per cent of all university exemptions went to students at the former "white schools". This analysis also showed that the overall gender balance may mask gender distinctions between the urban and rural areas. For example, 52 per cent of the matriculation passes at the former "black schools" in the urban Katutura area went to girls, while girls accounted for only 34 per cent of the matriculation passes at the former "black schools" in the rural areas. More research into the relationship between gender and school performance is needed before this problem can be adequately addressed.

365. The primary institution for tertiary education in Namibia at independence was the Academy, which comprised the University of Namibia, the Technikon and the College of Out-of-School Training (COST). Conceptually, the Academy was designed to cater for a broad range of post-secondary training under the umbrella of a central administration. Three affiliated colleges, located in the Ovambo, Kavango and Caprivi regions, provided support for a programme of distance training. However, on the basis of recommendations made by a Presidential Commission on Higher Education, the University of Namibia has recently been reconstituted as an autonomous institution.

366. In 1991, the total enrolment at the University was 10,328 (73.3 per cent females); at the Technikon, 9,716 (70.4 per cent females); and at COST, 1,332 (50.6 per cent females). The University enrolment figures compare well with the number of students completing secondary school. The percentages of female enrolment are also a positive indicator, although women are concentrated in health sciences, education and distance teaching, while men dominate the sciences.

367. The Presidential Commission on Higher Education has recommended several measures aimed at making higher education more accessible to all qualified students. For example, it suggested special bridging and access courses to redress the present inequalities at the secondary level, a system of government bursaries and loans, a modular structure of course credits which will be particularly appropriate for employed people studying part-time, a well-developed programme of distance education, and extension activities throughout the country. A statute establishing the new University of Namibia came into force in 1992, and a similar act establishing a new polytechnic is expected in the near future.

368. There are a number of ministries involved in the area of vocational and technical training, which has in the past hampered the coordination of efforts in this area. As of 1990, there were seven publicly administered vocational and technical schools in Namibia - one technical school, three technical institutes, one industrial school and two agricultural schools - with a total of only some 1,155 students. Vocational courses are also offered by the College of Out-of-School Training (COST) at the Academy, which had a 1991 enrolment of 1,332.

369. The total 1990 enrolment at these schools, including COST, amounted to only about 3 per cent of the number of students in senior secondary education, a very small percentage by any standards. Some additional vocational and technical training is being carried out by a handful of non-governmental organizations and by the private sector, particularly in the mining, transport, power and construction industries.

370. A post-independence assessment of Namibia's vocational and technical training found that few vocational and technical schools are filled to capacity, and it was estimated that some schools could triple their enrolment without being overburdened. The average student:teacher ratio was a low 10:1, so enrolment could be increased without adding additional staff members, thereby making existing resources more cost-effective. This assessment identified a need to attract more highly qualified teachers, perhaps through increased salaries or benefits. It also suggested that equipment should be upgraded, that the existing examination system should be revised, and that entry-level bridging courses should be offered to help students qualify for vocational and technical training. A subsequent assessment reinforced many of these points and made additional recommendations, including the establishment of a national body to coordinate the development of a national curriculum, the rationalization and redeployment of existing facilities and equipment, and the introduction of a new system for assessing qualifications which will emphasize students' successes rather than their failures.

371. Although strategies for change in the light of these assessments are still being formulated, certain steps have already been taken. For example, it has already been decided that the new junior secondary curriculum which is being introduced will include required courses from the domestic, commercial, agricultural, art or technical fields as a way to introduce students to vocational topics at this level. The Ministry of Youth and Sport is already making plans to establish a Vocational Skills Training Centre in southern Namibia, as the existing vocational facilities are concentrated in other regions, and the Ministry of Labour and Manpower Development has already produced a draft Vocational Training Bill which should come before Parliament in the near future.

372. The Government has expressed its commitment to coordinate State-funded bursaries and bilateral and multilateral scholarships and fellowships. Policies and procedures to govern these services are in the process of being established, although resource availability is a serious constraint. During 1991, the Ministry of Education and Culture administered 4,173 bursaries, for which R7.2 million was paid out. The Ministry also provided payment to 18 students for travel costs, to enable them to take up foreign scholarships.

373. Namibia has developed a unique approach to the issue of school discipline. The Supreme Court of Namibia has ruled that corporal punishment in schools is unconstitutional, as a violation of the right to human dignity (see annex V). The Namibian Educational Code of Conduct forbids corporal punishment and provides that physical force or restraint may be used against a student only to prevent bodily harm or to safeguard property. This Code also provides that, while students are expected to comply with legitimate disciplinary measures, they have a right to protection from corporal

punishment, verbal abuse and unjust or excessive punishment. Students also have the right to be informed of any disciplinary action that can or might be applied to them for failure to comply with school policy.

374. Serious or repeated violations of school rules are dealt with by a democratically elected school board composed of representatives from parents, teachers and, at the senior secondary level, the student representative body. School boards are competent to issue written warnings, transfer or suspend a student, or, with the consent of the regional director of education, expel or dismiss a student.

375. Since corporal punishment was outlawed, the Ministry of Education and Culture has been promoting a new approach to school discipline embodied in the concept "Discipline from Within" which has already been discussed above (see sects. III D and IV F above). The Ministry has emphasized that threats, violence and abuse of the rights or property of others will not be tolerated, as the letter and spirit of the Constitution protects the rights of all persons - teachers, students and principals - to learn and teach in safety and dignity. However, this ideal is now being approached by inviting the participation of the entire school community in formulating rules and regulations which will have widespread support. The emphasis will be on cooperation and positive incentives, but where punishment is unavoidable, it must be specific, proportionate to the offence and understood by the offender. The Ministry is still in the process of introducing and popularizing this new approach to discipline.

376. Namibia has been fortunate in being able to draw on international expertise in the formulation of its educational policy. Many international agencies have come forward with offers of assistance in the education sector, and the Ministry of Education and Culture has benefited from the experience of a number of expatriate consultants. Namibia has also entered into a number of cooperation agreements with other countries in the field of education. Namibia is also reflecting a more international approach to education by switching its school examinations system to an internationally recognized system.

377. A new statute governing education is almost complete and is expected to be introduced in Parliament during the course of 1992 or early 1993.

B. Aims of education

378. The Namibian Government is in the process of establishing a National Institute of Educational Development (NIED) which will focus on curriculum development and syllabus design. Construction of the physical facilities for this Institute is under way, and a nucleus for the Institute has been established within the Ministry of Education and Culture in the meantime. The NIED will also be involved in language research and development; developing teacher education; developing educational media; developing procedures for educational assessment, examination and evaluation; and developing human resources (such as advisers, inspectors, principals, teacher trainers).

379. The language policy of the Ministry of Education and Culture ensures that the various cultural and linguistic backgrounds of children in Namibia are respected. At the lower primary school level, the home language of the children is to be the medium of instruction, while English, Namibia's official language, is to be taught as a subject. English as a medium of instruction is to be phased in during the upper primary years. At the secondary school level, the goal is for English to be the medium of instruction in all subjects, while the home language or any other language may be taught as a subject.

380. Since independence, the Government has supported and encouraged a number of innovative programmes carried out by non-governmental organizations to enrich the educational curriculum. For example, with the cooperation of the Government, the non-governmental Legal Assistance Centre has initiated a Legal Education Project which teaches schoolchildren about the Namibian Constitution and laws. In the 1991 academic year, more than 700 legal education sessions were held in 15 different schools throughout the country.

381. Another creative initiative is the publication of Abacus, a popular weekly newspaper for secondary school students which is distributed nationwide as a weekly insert to national newspapers and by means of direct mailing to schools. Abacus is aimed at providing information to supplement the material in the school syllabus, as well as information of social and cultural interest. For example, Abacus is planning to publish a series of articles on the rights of children in 1993, including a specific segment on the contents of the Convention on the Rights of the Child. The Patron of the Trust which overseas the publication of Abacus is Namibia's Minister of Education and Culture.

382. The Government has taken steps to address gender stereotypes in school curricula and in the school environment. Curriculum panels at the NIED will scrutinize curricula and proposed textbooks and study materials for gender discrimination and stereotypes, and there is a conscious effort to achieve a gender balance in the composition of every curriculum evaluation committee.

383. All school subjects are equally open to boys and girls, and the senior secondary school guidelines explicitly direct that students should be encouraged to cross the traditional boundaries of sexual stereotyping in their choice of subjects. To encourage girls to consider careers in scientific and technical fields, videos featuring women working in these areas are shown in the life science classes, but girls still tend to focus almost exclusively on careers in nursing and teaching. Hopefully, Namibian girls will become increasingly open to the wide range of career options available to them as the number of women role models in public life increases.

384. Addressing gender issues is a complicated task, as gender stereotypes are deeply embedded in Namibian culture. The schools cannot erase sexual inequality on their own, but there seems to be room for a greater emphasis on gender issues in the school setting.

385. Namibia is in the process of implementing an innovative approach to environmental education for children. The Etosha Nature School in Etosha Game Park recently opened its doors to groups of schoolchildren for the first time.

This school, which is administered by the Ministry of Wildlife, Conservation and Tourism in cooperation with the Ministry of Education and Culture, offers open air classes in ecological subjects for students from schools in the surrounding area, who can come for short field trips during school terms or for longer periods during school holidays. This nature school will ultimately be part of a network of similar schools scattered throughout the country, in order to draw on Namibia's diverse ecosystems. The life science subjects taught in the normal schools are also in the process of being redesigned to place more emphasis on ecology and environmental concerns.

386. The Namibian Constitution (art. 20 (4)) allows for the establishment of private educational institutions at all levels, provided that:

(a) All private schools are registered with the Government;

(b) The standards at private schools are not inferior to the standards at comparable State-funded schools;

(c) No restrictions are imposed on the admission of pupils with regard to race, colour or creed; and

(d) No restrictions are imposed on the recruitment of staff on the basis of race or colour.

C. Leisure, recreation and cultural activities

387. The Ministry of Youth and Sport is in the process of establishing Youth Resource Centres in each of Namibia's 13 regions to be a focal point for youth activities and information, augmented by a network of "drop-in centres" which will help to spread activities and information more widely throughout the region. Planned activities include after-school recreational programmes, drama, life skills classes, counselling, and the provision of information on a variety of topics, including career guidance. These centres will not attempt to provide such activities and services independently, but will draw on the resources of other government ministries and non-governmental organizations in an effort to make existing resources more accessible to Namibia's youth. In addition to providing enriching activities for youth, it is hoped that the programmes offered at the proposed youth centres will help to combat problems such as drug and alcohol abuse and juvenile delinquency.

388. Non-governmental youth groups may be able to use space at the youth centres for their own programmes and activities. The Ministry is also planning to institute a voluntary registration process for all youth groups, to facilitate the dissemination of information about youth activities. The establishment of the Youth Resource Centres is a long-range project, which is not expected to be completed within the next five years. It must be noted in this regard that the Ministry of Youth and Sport is one of Namibia's newest ministries, having only recently been separated from the Ministry of Education and Culture, and therefore still in the process of formulating policies and programmes. Planning for a central Youth Resource Centre in Windhoek is under way at present.

389. Another mechanism for spreading information about youth activities is a new newsletter called "Youth Matters", which provides accessible information about youth organizations, sports activities, youth camps, and upcoming activities of interest to young people.

390. The Ministry of Youth and Sport is in the process of taking steps to increase the international dimension in leisure activities. For example, Namibia is about to become a member of the International Youth Hostel Programme, a step which should make the country more accessible to young visitors from other countries. Namibia is also a new participant in the International Youth Exchange Programme supported by UNESCO, and has already hosted students from Angola and South Africa.

391. Another initiative which will promote the development of youth activities is the establishment of a network of "Workers of Youth" by the Ministry of Youth and Sport. This is an effort to draw together people from Government, churches, schools and non-governmental organizations involved in youth work to exchange information and to facilitate the establishment and development of youth organizations.

392. Sports activities are available at every school in Namibia, even though facilities and equipment are rudimentary in some locations, and there has been a surge of interest in sports activities following the success of Namibian runner Frankie Fredericks in the recent Olympic Games where he won two silver medals - an event which helped Namibian children see the level of achievement which is possible.

393. In 1992 the Cabinet approved the establishment of the Namibia National School Sport Union (NSSU) to plan and execute sport programmes at school level, in cooperation with the Ministry of Youth and Sport and the Ministry of Education and Culture. The NSSU has already established structures to promote and develop sport at national and regional levels, and sponsorship from the private sector has facilitated the expansion of school sport programmes. Since independence, Namibia has fielded national teams in soccer, hockey, netball, rugby, cricket and tennis in competition at the international level.

394. In order to give all Namibian children equal opportunities in the area of sport, there is still a need for more sports equipment and improved sport facilities, particularly in the rural areas. Transport is also a problem in the rural areas, and there is a shortage of qualified trainers to assist sports staff at the school level. In addition to the NSSU, there is also a Tertiary Institutes Sport Association of Namibia which receives some financial support from the Government.

395. Namibia's national cultural facilities, such as the National Theatre of Namibia, the Windhoek Conservatoire and the Arts Association of Namibia, have since independence engaged in active programmes of outreach to formerly neglected segments of the Namibian population. Senior cultural officers have been appointed in the six education regions to help develop cultural activity in the rural activities, and plans are being made to start cultural clubs in as many schools as possible.

396. Groundwork has been laid for the establishment of a National Arts and Cultural Council, in which a broad cross-section of forms of cultural expression will be represented. A comprehensive survey of cultural activities in the nation has been conducted, and the results published in a document for national and international circulation. Cultural development is being carried out in terms of an overarching principle of democratization, in an effort to eliminate Western bias by encompassing the wide and rich range of indigenous cultural expression in Namibia.

397. Since independence there have been a wide range of cultural activities and policies which have focused on the needs of children. For example, in 1991 the National Theatre of Namibia (NTN) collaborated with the Ministry of Health and Social Services to produce "Maria's Motherhood", a drama about the dangers of early pregnancy. Local street children participated in another NTN production which combined art and social commentary. The NTN also cooperates with a non-governmental group called Playmakers, which was formed to focus specifically on children's theatre.

398. In 1991 the Windhoek Conservatoire had an enrolment of more than 1,300 students, in addition to the school students served by its personnel through programmes in the schools. The Conservatoire has also coordinated the production of a book, Namibian Songs for Schools and Communities, which includes an anthology of songs, background information on Namibian music and advice on how to include music in school curriculum.

399. The School of Arts at the Academy offers courses in drama, music and the visual arts. This faculty is in the process of being transferred to the newly established University of Namibia, and it has been suggested that the academic programme should incorporate an increased emphasis on developing the teaching of art in teachers' colleges, schools and communities.

400. The Namibian Arts Association, soon to be transformed into the National Arts Gallery, awarded 10 study bursaries to Namibian students in 1991.

401. There is a Namibian Youth Choir with approximately 65 students drawn from 20 different schools, with a repertoire ranging from classical to African music.

402. As part of a wide-ranging effort to improve the cultural components of the school syllabus, arts appreciation will be an obligatory course in the new junior secondary school curriculum, with drama, dance, art and music as optional subjects.

403. Plans are under way to extend the reach of Namibia's 21 public libraries, including the establishment of a mobile library service to serve rural areas, and as already noted, efforts are being made to encourage the publication of children's books appropriate to the Namibian setting.

404. This is only a sampling of the current cultural activities involving children, to give an indication of the range of activities under way.

405. Namibia has established a number of channels for international cooperation in the area of culture. Bilateral cultural agreements have been concluded with a number of individual countries, resulting in a variety of fruitful cultural exchanges. Among the countries which have opened cultural centres in Windhoek are France, the United States, the United Kingdom and Germany. These centres have offered a varied range of activities, such as language curses, concerts, library facilities, lectures, films, plays and exhibitions.

406. Namibia has also developed a network of international contacts through UNESCO and the Southern African Development Community. For example, an SADC conference on popular theatre held in Namibia in August 1991 was attended by representatives from 34 countries and culminated in plans for the establishment of national and regional networks to promote community theatre. The Cabinet has established a National Commission for UNESCO which will help keep Namibia in touch with culture activities worldwide, and will spearhead Namibia's participation in the UNESCO Decade for Cultural Development.

VIII. SPECIAL PROTECTION MEASURES

A. Children in situations of emergency

1. Refugee children

407. The Namibian Constitution (art. 11 (4)-(5)) provides that illegal immigrants may be deported from Namibia only if the deportation is authorized by a tribunal constituted by law. Persons who have been arrested and held in custody as illegal immigrants also have a constitutional right to consult the legal practitioner of their choice in confidence.

408. Namibia has only recently established channels for dealing with persons seeking status as political refugees. Such persons are now expected to report either to the Ministry of Home Affairs or to the local office of the United Nations Higher Commissioner for Refugees (UNHCR), either voluntarily or upon referral by the Namibian Police after being identified as illegal immigrants. Their situation is then assessed by a joint Government/UNHCR committee, which meets weekly and includes representatives of some eight ministries. Refugees and potential refugees awaiting a decision on their status are housed at a transit centre at Osire.

409. As of September 1992, there were 22 children among the persons who have been classified as refugees, two of whom were staying with family members at Osire. It has been suggested that supplementary food should be provided for children housed at Osire, and if the number of children at the centre grows, it may be necessary to establish child care or pre-school facilities. There is also a need for special programmes aimed at women refugees, to enable them to become economically self-reliant. However, it should be noted that procedures and programmes for refugees are still in a developmental stage.

2. Armed conflicts

410. The children of Namibia suffered greatly in the struggle for Namibian independence. At least 11,000 Namibians lost their lives in war-related incidents, but the number of children contained in this figure is unknown. Schools and churches were targets for bombs in northern Namibia. In one of the most horrific incidents of the war, it was reported by the group Africa Watch that South African forces assaulted several refugee camps at Cassinga, in southern Angola, on 4 May 1978, of the 612 reported casualties, 298 were children. Children also experienced torture, as in the well-documented case of a 15-year-old boy who suffered second-degree facial burns when South African soldiers held him against an exhaust pipe. There were also reports, published by the Univesity of Namibia, of girls as young as four being raped by members of the South African security forces. Children were also reportedly among the detainees on both sides of the conflict. Persons on both sides of the war were subsequently reported to be missing, and in 1991 the Namibian Government asked the International Committee of the Red Cross to investigate all reports of missing persons.

411. Namibians in exile took innovative approaches to providing for the education of exiled children during the long war years, and to facilitating their transition back into Namibia and the Namibian educational system after independence. The war separated families in many ways. Even where entire families went into exile, children were still sometimes separated from their parents because of educational needs or for reasons of safety. Furthermore, when exiled parents returned to Namibia prior to the 1989 elections, some children elected to remain abroad to complete their schooling.

412. The South West African People's Organisation (SWAPO) - the leading political movement in the liberation struggle and now the political party which holds the majority of seats in Namibia's National Assembly - established schools for exiled children in the settlements in neighbouring countries where exiled Namibians lived and trained particularly in Zambia.

413. A large number of Namibian children were moved farther away during the war because of the danger of attacks by the colonial forces on the camps in Zambia. The Cuban Government supported two schools exclusively for Namibian students, one primary school and one secondary school. These schools were organized on a "bicultural" principle, with English and history being taught by Namibian teachers and other subjects being taught by Cuban teachers. A school for more than 300 Namibian children was established at Loudima in the Congo, also served in part by Namibian teachers. As these exiles were repatriated to Namibia, special education programmes were set up for the children who had been studying abroad. An emergency education programme was implemented for all returning primary school children, while special bridging programmes were set up for children from particular schools.

414. For example, a bridging programme for the Loudima students was established in the Ovambo region after their return. Another bridging programmme for a group of more than 100 children who studied in Czechoslovakia was set up in Usakos, and a special vocational training programme was set up for children from the Nyanga School in Zambia at a secondary school in Ruacana, in northern Namibia, after it became evident that some of these

children were experiencing adjustment problems. Similar assistance on a smaller scale was provided for other returning students. In another effort to smooth transition, a number of Namibians who spent many years studying in Germany were placed with German-speaking foster parents upon their return to Namibia, to help soften the cultural shock of returning to a "home" country where the language and the customs seemed alien.

415. The transition of the students from abroad into the Namibian educational system has also been facilitated by the recent reforms in the Namibian school curriculum, as Namibia moves towards a more international approach. The efforts to provide continuity have worked in both directions - while bridging programmes using some of the same teachers who taught in exile have provided one form of continuity, another stems from the fact that educational reforms in Namibia since independence have drawn on the experience of Namibian schools abroad, the school at Loudima in particular.

416. Additional educational opportunities abroad were provided by the United Nations Institute for Namibia (UNIN) in Lusaka, a unique institution which focused on preparing Namibians in exile to return to government and administrative posts in Namibia after independence. (The former Director of UNIN is now Namibia's Prime Minister.) The establishment of UNIN and the hospitality of educational institutions in countries around the world provided invaluable educational opportunities for Namibians in exile, but there have been some difficulties in the post-independence era regarding the equivalence of qualifications from such a wide range of institutions. A further handicap has resulted from the fact that Namibians who received professional training abroad were not always able to supplement that training with appropriate work experience because of the contingencies of the liberation struggle.

417. More than 1,000 Namibians are still in educational institutions scattered all over the world, particularly in university, technical and vocational courses. Only Cuba is still host to large numbers of school-age children; current figures indicate that there are still 467 students in Cuba aged 6-9 years (244 girls and 223 boys), and 84 students aged 10-12 years (27 girls and 57 boys).

418. In the months prior to the elections held pursuant to Security Council resolution 435 (1978), over 40,000 Namibians returned home after years of exile in a repatriation programme supervised by UNHCR. It was estimated by the World Health Organization that 55 per cent of all returnees were under 15 years of age.

The breakdown of returnees as of October 1989 was as follows:

Age	Male	Female	Total
0-1	2 038	2 126	4 164
2-3	1 846	1 956	3 802
6-11	1 557	1 661	3 318
12-17	1 067	585	1 652
18+	16 988	11 863	28 851
Total	23 956	18 191	41 787

Source: Dr. F.J. Bennett, "Child Survival and Development and Safe Motherhood through Primary Health Care in Namibia", UNICEF, February 1990, section 8.

419. These returning Namibians were placed under the care of the Repatriation, Resettlement and Rehabilitation (RRR) Committee of the Council of Churches in Namibia, which worked in cooperation with UNHCR. The RRR Committee provided food and supplies to help families reintegrate themselves in the community, and established seven schools for returnee children with special bridging programmes to facilitate the transition to local schools. Special measures to ensure household food security in the areas of the country receiving the highest proportion of returnees were also implemented, and communities, with a high number of returnees continue to be targeted for special assistance.

420. There are no rehabilitation programmes aimed specifically at war victims, who are integrated into the overall rehabilitation efforts for the disabled which have already been described (see sect. VI B above). However, it has been noted that there seems to be an absence of services designed to help heal the psychological traumas caused by war injuries, loss of family members and family dislocations and readjustments, where these traumas are not manifested as extreme psychiatric problems.

421. Among the remnants of Namibia's war of liberation are unexploded ammunition and landmines in the northern region which still claim a number of lives each year. Children form a high proportion of the casualties of these accidents - from the beginning of 1989 to the end of August 1992, 65 persons were killed in accidents with explosives, including 31 children, while out of a total of 131 persons injured, 60 were children.

422. Since independence, the police have conducted a comprehensive publicity campaign about the dangers of unexploded ammunition. Children have been specifically targeted by various publicity programmes. For example, the police have utilized television and radio spots, posters and colouring contests in their awareness campaign. As the number of accidents of this type remains unacceptably high despite these efforts, a committee has been established to explore other preventative measures.

423. Another aftermath of Namibia's recent war is the sudden loss of income to many families whose livelihood depended upon the intensive military activity in the country, either directly (in the form of wages and food provided to soldiers on both sides of the war) or indirectly (in the form of formal and informal economic activities supported by the military). One effort to alleviate the direct loss of income in some small way was the provision of one-time payouts to former combatants on both sides of the conflict from funds provided by both the Namibian and South African Governments.

424. The Namibian Government also established "development brigades" in various regions to facilitate training and employment for some 3,000 former combatants, both male and female. However, the activity of these brigades has been hampered by administrative problems and a lack of equipment. The Cabinet recently decided to transform the brigades into a parastatal business, to free them from government regulations which are impeding their commercial activities and to make joint ventures with the private sector easer to arrange.

425. Namibia has taken steps to prevent children from taking a direct role in any future hostilities. The Namibian Constitution allows for the possibilty of conscription, but at present Namibia has only a volunteer force. Prior to independence, all white males were liable for military service from the age of 17, and males of other races could serve voluntarily from age 17. Compulsory service was eliminated prior to the elections held pursuant to Security Council resolution 435 (1978). The current Defence Act is silent on the minimum age for enlistment, but the policy of the Ministry of Defence is to accept only males who are at least 18 years of age for voluntary service.

B. Children in conflict with the law

1. The administration of juvenile justice

426. The Namibian Constitution affords strong protection for the right of fair trial for all persons. Any person who is arrested must be promptly informed of the grounds for the arrest in a language which he or she understands, and must be brought before a court within 48 hours (or, if this is not reasonably possible, with the shortest possible period of time) (art. 11). All persons are entitled without delay to a fair and public trial by an independent, impartial and competent court or tribunal established by law, with the caveat that the press and the public can be excluded from particular cases in the interests of morals, public order, national security, or as otherwise necessary in a democratic society.

427. All persons charged with an offence are presumed innocent until proven guilty, after having had the opportunity to call their own witnesses and to cross-examine witnesses against them. All persons have the right to adequate time and facilities for the preparation and presentation of a defence, and the right to be represented by a legal practitioner of their choice.

428. Persons cannot be forced to give testimony incriminating themselves, and no one can be convicted of a retrospective offence (art. 12).

429. In practice, the lower courts handle the largest volume of criminal cases, while particularly serious cases are tried in the High Court. A district magistrate's court cannot impose a sentence higher than 12 months for a single charge, while a regional magistrate's court can impose sentences of up to 10 years. The High Court is competent to impose any sentence up to life imprisonment. The decision of which court to use is left to the discretion of the State prosecutors. The age of the offender is not usually a factor in the choice of court, although criminal cases involving children as victims are frequently heard by the High Court.

430. There is an unlimited right of appeal from the lower courts, while leave to appeal must be granted for cases initially heard in the High Court. In addition, there is an automatic review of all magistrate's court cases where the accused was not assisted by a legal adviser and a sentence of more than three months was imposed by a magistrate with less than seven years' experience, or a sentence or more than six months was imposed by a magistrate with more than seven years' experience.

431. Every accused is entitled to the assistance of an interpreter provided by the State if necessary, as part of the right to a fair trial.

432. As noted above, a child below the age of seven years cannot be convicted of an offence, and where the offender is between the ages of 7 and 14, the State bears a special responsibility to show that the child acted knowingly. (see sect. II above).

433. The parent or guardian of an accused under the age of 18 is obliged by the Criminal Procedure Act (sect. 74) to attend the relevant criminal proceedings. An accused under the age of 18 is also entitled to be assisted by a parent or guardian (sect. 73). The courts take this requirement very seriously, in practice often refusing to proceed in the absence of a parent or guardian unless an acceptable explanation has been supplied.

434. The criminal law contains several measures which protect the privacy of juvenile offenders. Where an accused is under 18, no persons other than the accused, the parents or guardian of the accused and persons whose presence is necessary to the proceedings can be present without the court's authorization (sect. 153 (4)). This applies to all stages of the proceedings. It is also illegal to publish any information that may reveal the identity of an accused or a criminal witness under the age of 18 (sect. 154 (3)).

435. Pre-trial detention is a last resort in the case of juveniles. The law states that a juvenile under the age of 18 who is accused of committing a criminal offence may not be detained in a prison or a police cell prior to trial, unless detention is absolutely necessary and no more suitable place of detention can be found. A juvenile who must be detained prior to trial cannot be allowed to associate with anyone else in custody who is over the age of 21. The law also requires that women under the age of 18 who are detained prior to trial must be under the care of a women, and provides special alternatives to pre-trial detention for young women arrested on any charge other than murder (sect. 71 and Prisons Act, sect. 29). The age, sex and character of the accused and the nature of the alleged offence are to be considered in deciding upon a suitable place for pre-trial detention. Young women arrested on

charges other than murder (which is defined not to include the murder of the prisoner's own new-born child) can be detained at any place deemed suitable by the Commissioner of Prisons, detained by a temporary custodian approved by the magistrate of the district, or released on her own recognisance).

436. In practice, juveniles who are arrested are seldom incarcerated while awaiting trial. The usual procedure is to release them with a warning into the custody of a parent or guardian until the trial takes place. However, in cases where this is not possible, Namibia's lack of suitable alternative places of detention is problematic.

437. Under Namibian common law, youth is considered a mitigating factor when a court considers the question of sentencing following a criminal conviction, and Namibian statute law provides special alternatives to punishment for children under the age of 18, and in some cases also for children under the age of 21. Where an accused under the age of 18 is convicted, instead of punishment, the court may order that the convicted offender be placed under the supervision of a probation officer, placed in the custody of a person designated by the court or sent to a reform school (sect. 290 (1)). An accused between the ages of 18 and 21 who is convicted of any offence other than murder without extenuating circumstances may be placed under the supervision of a probation officer or sent to a reform school in lieu of punishment (sect. 290 (3)). The alternatives to punishment for persons between the ages of 18 and 21 are also available even in the case of a conviction for murder without extenuating circumstances, where the accused is a mother convicted of the murder of her own new-born child.

438. Where such orders are made in lieu of punishment, their maximum duration is specified: for an offender under the age of 16, until age 18; for an offender between the ages of 16 and 18, until age 21; for an offender over the age of 18, until age 23 (sect. 291).

439. Corporal punishment for both adults and juveniles has been declared unconstitutional as a violation of human dignity (see annex V). Before corporal punishment was declared unconstitutional in 1991, there were special safeguards regarding the whipping of juveniles: whipping, not to exceed seven strokes was a competent punishment for males under the age of 21 (but not females) if conducted in private, while the offender was clothed, after the parents or guaridans had been notified of their right to be present, and after a district surgeon had declared that the offender was in a fit state to receive a whipping. This decision has been both welcomed and critized within Namibia. One problem which has been created is that because the decision came suddenly, and shortly after independence, appropriate alternatives to imprisonment for juveniles (such as community-service programmes and special youth facilities) have not yet been sufficiently developed.

440. In practice, the courts are always reluctant to incarcerate a juvenile offender. Sometimes a youth is released with a warning, or given a suspended sentence (meaning that a sentence of imprisonment is imposed, but not actually served unless the offender commits a subsequent crime). The courts sometimes postpone the imposition of sentence, reserving the right to impose a sentence of imprisonment later if the juvenile proves to be a chronic offender. Another option is to convert the criminal trial into an inquiry for a "child

in need of care" under the Children's Act. In this way, the juvenile offender can be placed under the supervision of foster parents or a children's home, or sent to a school of industries, without actually acquiring a criminal record.

441. One factor which has influenced the treatment of juvenile offenders is the provision in the Namibian Constitution stating that preventative detention for persons under the age of 16 is impermissible. Some magistrates have interpreted this to mean that juveniles under the age of 16 may not be sentenced to imprisonment after a criminal conviction, although constitutional analysts do not generally consider this to be the actual intention of the provision in question.

442. There are no reform schools in Namibia, and only one "school of industries" to which juvenile offenders can be assigned for training and supervision (the Otjizondo School of Industries for boys described in section V F above). Prior to independence, South African criminal facilities were utilized for juvenile offenders from Namibia and the development of similar facilities in Namibia was neglected.

443. Another factor which limits realistic alternatives to imprisonment for juveniles is the shortage of probation officers (who also function as social workers in most cases). It has been suggested that where a term of imprisonment is not imposed, there should an intensive programme of counselling and monitoring, combined with constructive activities at community centres for youths, but this is not possible at present because of the lack of personnel and facilities.

444. Probation officers are authorized by the Children's Act (sect. 58) to make a report to the court in criminal cases involving accused under the age of 21, with a view to providing information on the character and environment of the child and the causes and circumstances contributing to the delinquency. Such reports are not required in all criminal cases, but are often requested by the courts. However, the shortage of probabation officers in Namibia means that such reports are often not as thorough or as strongly motivated as they might be, leaving the courts without clear guidance in many cases.

445. It is difficult at this stage to compile useful information about the crime patterns of juvenile offenders. The Namibian Police have only recently acquired the equipment necessary to computerize their statistics, and the retrieval of information on the basis of the age of the offender or the victim is not yet possible. Crime statistics are not disaggreated by gender either, but experience shows that the vast majority of juvenile offenders are boys rather than girls.

446. The Ministry of Youth and Sport is planning a research project to assemble detailed information about crimes committed by juveniles, by sending questionnaires to police personnel and involving various youth groups and non-governmental organizations. This project is expected to be under way by early 1993.

447. The Ministry of Youth and Sport is planning to establish a network of regional youth resource centres which will be, among other things, a focal point for outreach programmes aimed at preventing juvenile deliquency. These

centres will provide after-school activities, classes in life skills and counselling and other support services which will hopefully discourage crime among the youth. The centres may also offer temporary emergency accommodation to youths who have nowhere else to go (see also sect. VII C above). The Ministry of Youth and Sport is also exploring the possibility of involving identified juvenile offenders in adventure training, as a method for helping them learn how to confront challenges. This approach has been used successfully in other countries, and the Ministry hope to be able to provide funds and facilities to promote such programmes in Namibia.

2. Deprivation of liberty

448. The Namibian Constitution (art. 11 (1)) protects all persons against arbitrary arrest and detention. It states that the dignity of all persons is inviolable and guarantees respect for human dignity even during the enforcement of a penalty (art. 8). The Constitution also provides that no law authorizing preventative detention shall permit children under the age of 16 years to be detained (art. 15 (5)).

449. As noted above, juvenile offenders are usually released into the custody of their parents or guardians pending trial, and Namibia's Criminal Procedure Act provides a number of alternatives to imprisonment for convicted juveniles. Where the State does not resort to incarceration, the goal of reformation and rehabilitation for all prisoners, juvenile or adult, is clearly expressed in Namibian law (Prisons Act, sect. 2).

450. The Prisons Act authorizes the setting aside of any prison or portion of a prison for the detention, training or treatment of a specified class of prisoners (sect. 23, as amended and sect. 78). The policy of the Department of Prisons is to hold all juveniles under the age of 21 separately from adults where possible. However, the overcrowding of prisons sometimes prevents the State from carrying out this policy in practice. Furthermore, incarcerating juveniles of widely varying ages together (14-year-olds together with 21-year-olds, for example) is not ideal.

451. At present, in the absence of any special juvenile facilities, all prisoners under the age of 21 are sent to the prison at Gobabis as long as space permits. As of September 1992, there were about 200 juveniles at the Gobabis prison - all boys. No juvenile girls were known to be in custody. As discussed above (see sect. V C above), mothers who are imprisoned may keep children under the age of 2 years in prison with them; as of September 1992 there were two infants in the Windhoek prison with their mothers.

452. Rights to visitation and correspondence depend on the classification of prisoners. Prisoners who are awaiting trial have a statutory right to write and receive letters and to receive visits (sect. 82). Convicted prisoners are assigned to Class A, B or C, depending on the type of crime committed, the criminal record of the offender, and the offender's conduct in prison. For example, under current prison policy, Class A prisoners may receive three visits a month, while Class B and C prisoners are allowed two visits a month. Juvenile prisoners being visited by their parents or guardians may request a

contact visit - meaning that they are allowed to sit together in the same room instead of communicating through a glass barrier - and this request is usually granted.

453. As already noted, all persons in Namibia have a constitutional right to be defended in court by a legal practitioner, and a right to consult this legal practitioner in order to prepare a defence. Also, even in the case of a state of emergency, when the Constitution (arts. 12 (e) and 24 (3)) allows for special forms of detention provided that a number of strict procedural safeguards are met, access to legal practitioners cannot be denied.

3. Sentencing of juveniles

454. The Namibian Constitution (art. 8 (2) (b)) provides that no person shall be subject to torture or to cruel, inhuman or degrading treatment or punishment. The Constitution also prohibits the death penalty (art. 6).

455. As noted above, the High Court of Namibia recently ruled that life imprisoment is not unconstitutional in Namibia. However, in Namibia life imprisonment, like any other term of imprisonment, is always imposed subject to the possibility of early release.

456. As already discussed, the law provides a number of alternatives to the imprisonment of juvenile offenders, and the courts avoid sentencing juveniles to imprisonment wherever possible. However, as discussed above, Namibia requires more resources (in the form of both personnel and physical facilities) to make full use of the potential range of alternatives.

4. Physical and psychological recovery and social reintegration

457. As noted above, because juvenile offenders from Namibia were often sent nto South African facilities prior to independence, the development programmes for juvenile offenders inside the country was neglected. Moreover, rehabilitation of prisoners of all ages is still a relatively undeveloped field. Namibia has six prisons at present, located in Windhoek, Gobabis, Grootfontein, Mariental, Omaruru and Swakopmund. The prison population includes some 25 women, all at the Windhoek prison, and some 200 juveniles at the Gobabis prison.

458. Vocational training is available only at the Windhoek prison, in fields ranging from sewing to carpentry. There are plans to expand this kind of training, and new prisons which are established will place a strong emphasis on rehabilitation. There are no formal rehabilitation programmes for juveniles at present, only counselling services and some literacy courses in English. Counselling is limited by the fact there are only some six or seven social workers in the prisons service, who are expected to cover the entire country. In principle, social workers are expected to support the families of juvenile prisoners as well as the offenders themselves, but the shortage of staff makes it impossible for this task to be carried out adequately. There is also a shortage of teachers to provide courses inside the prison; the English classes which are currently being provided are in many cases taught by other prisoners.

459. Plans to provide more programmes for juvenile offenders are in the process of formulation. The prisons service intends to establish a prison library to make a broader range of books available to prisoners, and hopes to provide classes for juvenile prisoners which will parallel the school syllabus. The adventure training programme for juvenile offenders being investigated by the Ministry of Youth and Sport should also make a strong contribution to the physical and pschological recovery of juvenile offenders.

460. There are also plans to improve follow-up services for released juveniles. The Otjizondo School of Industries may be utilized as a transitional facility in some cases, and there are plans to work in coordination with the Ministry of Education and Culture to facilitate the reintegration of released prisoners into the school system. The network of Youth Resources Centres planned by the Ministry of Youth and Sport may also be able to provide support for the transition into normal society.

461. The need for more emphasis on preventative approaches to juvenile offenders has been noted. For example, it would help if social workers and youth workers were alerted to potential problems in time to take action before violations of the law occur. Prevention is a multi-faceted effort which will be aided by a broad range of initiatives already cited - including the establishment of the Youth Resource Centres, the street children programme, the expansion of sport and cultural activities for youth and efforts to reduce unemployment and to combat alchohol and drug abuse.

C. Children in situations of exploitation

1. Economic exploitation

462. The Namibian Constitution (art. 15 (2)) protects children under the age of 16 years against economic exploitation and hazardous employment. Children under the age of 14 years are forbidden to work in factories or mines, except as authorized by Act of Parliament (art. 15 (3)). The Constitution also makes it unlawful for the children of an employee to be forced to work for the employer of the parent, a provision which was aimed at farmworkers who generally live with their families on the farms where they are employed and are particularly vulnerable to exploitation (art. 15 (4)).

463. Namibia's new Labour Act goes even farther than the Constitution in protecting children against exploitation and hazardous employment. It is illegal under this statute to employ a child under the age of 14 years for any purpose whatsoever. It is illegal to employ any child between the ages of 14 and 16 for certain categories of hazardous work, including employment in mines, factories, electricity works, construction work, or in connection with the installation, erection or dismantling of machinery. Children between the ages of 15 and 16 may not be employed to work underground in a mine. In addition, the Minister of Labour is empowered under the statute to further limit the types of employment which are permissible for children between the ages of 14 and 16. No distinction is made between part-time and full-time employment in the provisions on child labour. It is also illegal under the Labour Act (sects. 42 and 108) for an employer to establish a scheme whereby

an employee's child is required to perform labour on behalf of his or her parent, where the child is under the age of 18. Violation of this prohibition constitutes a criminal offence.

464. Anyone who has seen the queues of young people standing on street corners in Windhoek, appealing to people in passing cars for work, will have some sense of the economic desperation which drives some young people to seek work rather than education. There is little data available on the economic exploitation of children, although it is a problem which is known to be particularly acute on farms, where employment relationships often involve entire families - with fathers performing farm labour, mothers performing domestic work, and children often being expected to "help out" without extra compensation. Although it is now illegal for employers to demand the labour of their employee's children, enforcement of this rule on isolated farms will be difficult if not impossible.

2. Drug abuse

465. Both alcohol and drugs are, at least in theory, controlled by statute law. The sale of alcohol to children under the age of 18 is illegal, and children under the age of 18 are prohibited by the Liquor Ordinance No. 2, 1969, from being admitted to, or employed in, premises with a licence to serve alcohol. Drugs are also regulated by law (Medical and Related Substances Control Act No. 101, 1965), with some being outlawed altogether and others available only by prescription to persons over the age of 16. Unfortunately, these laws are not always enforced, and are in many cases unenforceable.

466. Although the sale of alcohol to both adults and children is in theory controlled by law, the illegal sale of alcohol is common. In 1991, there were 804 establishments with a licence to sell liquor in Namibia (including bottle stores, restaurants, hotels, restaurants and sports clubs), in addition to a large number of illegal bars (or "shebeens") and sellers of "tombo" and other home-brewed alcoholic beverages.

467. A 1990 study of 11 locations in southern Namibia found at least 3 bottle stores in every town, including at least 1 bottle store run by the municipality as a profit-making venture, in addition to illegal "shebeens" supplied by the bottle stores as a way to expand their business. Most of the drinkers interviewed were heavy drinkers, who drank small amounts during the week and excessively on weekends, with the second largest group of drinkers being alcoholics.

468. The connection between alcohol and larger social problems was made clear by this study. For example, at least half of the "shebeens" were run by single mothers, while there were also many single mothers among the group of heavy drinkers. Alcoholics tended to be predominantly single and unemployed. Many persons stated that they drank to forget about their problems, which stemmed from unemployment, low incomes and ill health. Others said that they drank to forget about cold or hunger. Many of the areas visited lacked recreational facilities, and "shebeens" and bars appeared to provide an important social outlet.

469. Community workers interviewed in the course of the 1990 study reported that child abuse, including sexual abuse, and malnutrition were commonly associated with alcoholism in the region, with few of these cases being reported to social workers. Alcoholism in the family was also associated with neglect of children's education and a high drop-out rate, leading in turn to children living on the streets as "street children" and to teenage pregnancies. Police in the area estimated that alcohol is linked to 80 per cent of all crimes in the southern region, and in a single small town, police reported detaining 105 people for public drunkenness in one two and a half month period.

470. A more national picture of the problem of alcohol abuse was provided by a 1991 survey of 1,592 adults in all regions of Namibia conducted by the Council of Churches in Namibia. A total of 73 per cent of all persons surveyed reported that they drink regularly, while 40 per cent of the respondents reported that they are heavy drinkers who drink daily and spend up to R70/week on alcohol. However, 54 per cent of all respondents indicated concern about the drinking habits of young people and thought that there is a need for programmes to inform youths about the dangers of drinking.

471. In a separate survey of 2,070 students aged 10 and up, 39 per cent stated that they use alcohol; of these, 11 per cent were between the ages of 10 and 14, 43 per cent between the ages of 15 and 16, and the remainder aged 17 or older. Girls constituted 54 per cent of all alcohol users, and the proportion of girls was particularly high in the younger age categories. Although 80 per cent of all respondents said that they were aware of the effects of alcohol, they did not seem to think that drinking was dangerous; however, 90 per cent favoured stricter State control on the selling of alcohol.

472. Another national survey involving 1,451 secondary school students aged 13 and above produced even more alarming results, as 58 per cent of the respondents (including significantly more boys than girls) stated that they used alcohol.

473. Namibia's independence opened up foreign markets and borders with neighbouring countries and stimulated the tourist industry. Unfortunately, these developments also opened up new supply routes for bringing drugs into the country. Drug abuse by children includes the use of illegal drugs - particularly marijuana (commonly called "dagga"), mandrax and, increasingly, cocaine, controlled drugs such as amphetamines and diet pills, and substances which are in themselves innocuous and therefore not illegal, such as glue and petrol which can be sniffed for a "high".

474. A 1991 survey by the Drug Action Group of 600 school students in Windhoek, ages 12-16, on the overall question of substance abuse revealed the following results:

(a) 18 per cent of the students admitted to smoking cigarettes regularly;

(b) 7 per cent drink the alcoholic beverage "tombo";

(c) 19 per cent use alcohol;

(d) 10 per cent smoke marijuana;

(e) 8 per cent smoke mandrax if they get the opportunity;

(f) 51 per cent use painkillers with no awareness of their danger;

(g) 13 per cent have used benzodiaspines (such as valium) before;

(h) 2.5 per cent have used inhalants; and

(i) 2.3 per cent have used other drugs before.

According to community leaders, substance abuse of this nature is dramatically higher in the 18-30 year age range. For youths, substance abuse appeared to be fairly evenly distributed among boys and girls, while adult males seemed to be slightly more prone to substance abuse than adult females.

475. In a separate 1991 nationwide survey of 1,451 students aged 13 and above, 19 per cent of the respondents said that they used drugs and 22 per cent said that they had friends who used drugs.

476. Drug cases which come to the attention of the police represent only a fraction of the problem. However, in the years 1986-1990, 200-400 persons were arrested on drug charges annually, with roughly one quarter of the offenders being persons aged 21 or younger. It is not uncommon for children as young as 14 to be arrested on drug charges, and there have been cases involving children as young as 10 years of age.

477. As noted above, a 1991 survey of 515 street children in three urban centres revealed that over 37 per cent of the children smoked cigarettes or marijuana, more than 41 per cent used alcohol, and a few admitted to sniffing glue or petrol. This is probably an understatement of the real extent of substance abuse among street children, as more than 50 per cent of the respondents said that their friends drank and smoked. When asked why they engaged in these activities, the most common response was to calm the nerves or to provide the feeling of a "high". Peer pressure and a desire to identify with the group were also frequently cited.

478. Substance abuse by children is a difficult problem to target, as it is both a cause and an effect of a cluster of larger social problems. Thus, efforts to combat substance abuse by children must come from a variety of fronts. According to the police, the laws on alcohol and drugs need to be revised, and there is a need for more specialized police personnel with experience in this area. Some of Namibia's hospitals have facilities to provide temporary treatment to drug and alcohol addicts, but the current shortage of social workers limits the potential for adequate follow-up. An Inter-Ministerial Drug Committee has already been established to help coordinate efforts to control and combat drug abuse, and a conference is planned for October 1992 to draw on international expertise as well as the experience of non-governmental organizations in developing a drug and alcohol policy for Namibia.

479. Alcoholics Anonymous is active in Namibia, and has a special programme for teenagers. Another non-governmental organization, the Drug Action Group, is focusing on education about drugs in the schools and on support for families experiencing a drug problem. However, there is an urgent need for more follow-up and counselling for children with drug and alcohol abuse problems, as well as an attack on the underlying circumstances which contribute to the dilemma - such as poverty, school drop-out rates, and the weakening of community and family structures.

480. The Family Life Empowerment Programme should be instrumental in tackling the problem of substance abuse, as should the new approaches to community involvement in educational issues and school discipline. Namibia's innovative street children programme will help to address substance abuse in this target group.

3. Sexual exploitation and sexual abuse

481. In addition to the various common law crimes aimed at protecting both children and adults from sexual exploitation and abuse (such as rape, indecent assault and incest) there is a statute called the Combating of Immoral Practices Act No. 21, 1980 which is aimed more specifically at sexual exploitation. Under this statute, it is an offence to keep a brothel, to procure girls or women for the purposes of prostitution, to live on the earnings of prostitution, to detain a female for purposes of prostitution, to solicit the commission of immoral acts in public places, to commit immoral acts in public places, to have sexual intercourse with a girl under the age of 16 or with a female idiot or imbecile, or to administer liquor, drugs or other substances to stupefy or overpower a female for immoral purposes. While this statute is fairly comprehensive with regard to the exploitation of females of any age, it does not offer any protection for boys.

482. Sexual exploitation is also covered by the Children's Act (sect. 19), which contains an offence called the "corruption of children", which makes it illegal for a parent, guardian or other custodian of a child under the age of 18 to allow the child to reside in or frequent a brothel; to contribute to the seduction, abduction or prostitution of the child; to contribute to the commission by the child of immoral acts; or to knowingly allow the child to consort with, or work for, a prostitute or a person known to be of immoral character. This offence applies equally to boy and girl children.

483. Very little information has been collected about the sexual exploitation of children in Namibia. Very few arrests are made with regard to prostitution-related offences, and information on the ages of the persons involved in these arrests is not available. However, the number of arrests is not considered to be a realistic indication of the extent of the problem of prostitution in Namibia, as it is widely believed to be a harsh and not uncommon result of the economic situation of women without other options for employment. More research in this area is needed.

484. The production of pornography is practically unknown in Namibia. Pornographic materials, which sometimes include child pornography, are imported illegally by private individuals, but this appears to happen on a relatively small scale. In recent months, Namibians were shocked by a highly

publicized case in which a father was convicted of incest and bestiality after making films of himself committing incest with his daughter as well as films of his daughter engaged in sexual intercourse with a dog. The father was fined R3,000 and given a two-year sentence of imprisonment suspended for two years, on the condition that he seek psychiatric treatment. The leniency of the sentence led to a public outcry which helped to focus attention on sexual offences involving children. However, it should be noted that this offence received so much attention partly because of the rarity of its pornographic aspect.

485. Sexual abuse of children in Namibia appears to be a far more serious problem than sexual exploitation involving children. For example, a tally of rape cases reported to the police countrywide in the first half of 1991 showed that, out of 104 rapes, 33 - about one third - involved victims under the age of 16, and almost one half of the cases reported in August 1992 (6 out of 13) involved girls under the age of 16. Another study of rape which analysed the files of the High Court of Namibia (which hears only the most serious rape cases) found that in cases heard during 1988-1990, there were rape victims as young as 21 months, and more than one third of all complainants were under the age of 18, with a substantial number of these being under the age of 12.

486. Statistics on cases of incest and indecent assault involving children are not available - and in any event, cases of this nature occurring within the family environment are unlikely to come to the attention of the police. However, anecdotal evidence indicates that these types of problems are not uncommon. As discussed above, a move is under way to establish a network of new trauma centres which can provide specialized medical, police and counselling services to women and children who are victims of crimes which cause severe psychological trauma, including sexual abuse. This step should help to encourage more reporting of such crimes, as well as providing more sensitive treatment to the crime victims (see sect. VI above).

4. Other forms of exploitation

487. In addition to the forms of exploitation discussed above and below, the Children's Act makes it illegal to cause or allow children under the age of 18 to beg, or to solicit alms for themselves, their families, or their custodians. "Street trading" is forbidden for children under the age of 16, except as authorized by the by-laws of the local authority in question. (The term "street trading" includes the hawking of any articles; the distribution of handbills or advertisements; playing, singing or performing for profit; shoe-cleaning; motorcar tending; and other similar occupations.) Also, children under the age of 14 may not be involved in public entertainment without a licence issued by the State (sects. 21 and 1).

5. Sale, trafficking and abduction

488. In Namibia, the crime of abduction is defined as unlawfully taking a minor (a child under the age of 21) out of the control of his or her custodian with the intention of enabling someone to marry or have sexual intercourse with that minor. A small number of cases of abduction are reported to the police each year. However, this may not represent the true extent of the problem as abduction is sometimes handled under customary law.

489. Kidnapping, another common-law crime, consists of unlawfully and intentionally depriving a person of liberty of movement, or depriving the custodians of a minor of control of that minor. While kidnapping does occur in Namibia, it usually occurs in the context of a divorce or separation of the parents where one parent fails to comply with a court order awarding custody to the other parent, and is usually resolved without the need for police intervention.

490. The sale, trafficking and abduction of children are often associated with sexual exploitation. As noted above, prostitution and related offences are covered by the Combating of Immoral Practices Act, at least with regard to prostitution by girls and women, and by the Children's Act, with regard to the corruption of children of either sex by a parent or guardian. However, only a very small number of cases of this type are reported to the police.

491. Namibia does not have a problem with "black market" adoptions. The Children's Act (sect. 86) makes it illegal to publish advertisements relating to the adoption or custody of children, including a mere intimation of a willingness to adopt or to provide a child for adoption. The publisher and the editor of the publication in question can be convicted of an offence and can also be incarcerated until they reveal the name and address of every person involved in the offending advertisement. It is illegal for any person to give or to receive money or anything else of value in connection with the adoption of a child. This applies to the prospective adoptive parents, the natural parents or guardian, or any other person (sect. 79). There are no indications that any adoptions are taking place outside of the statutorily prescribed procedure (see sect. V H above).

492. As noted above, Namibia is in the process of negotiating extradition agreements with neighbouring countries which would facilitate redress should international trafficking in children become a problem in Namibia (see sect. V H above).

D. Children of minority or indigenous populations

493. The Namibian Constitution (art. 19) protects the right of every person in Namibia to practise and promote any culture, language, tradition or religion which does not interfere with the Constitutional rights of others or the national interest.

494. Namibia is a country of many cultures, but in the past this was seen as a basis for separation rather than a source of rich variety. Given Namibia's history of apartheid in every aspect of life from cradle to grave, the relative absence of bitterness in the post-apartheid era is remarkable. A study of ethnic stereotyping carried out in the Windhoek area shortly before independence showed that such stereotyping does occur with regard to all the major ethnic groups in Namibia. However, the Government's consistent policy of national reconciliation has helped to prevent further divisions, and Namibia is in the process of shaping a strong national identity which leaves room for diversity.

IX. CONCLUSIONS

495. Everything which has been done to advance the situation of children in Namibia since independence has taken place against the backdrop of the Namibian Constitution, which has been hailed as one of the most progressive in the world with regard to its protection of human rights.

496. The concept of "rights" is a new one in Namibia, and people do not always take advantage of all of the rights which are available for their protection. However, efforts to educate communities about their legal and constitutional rights are increasing, and the creation of a rights culture is clearly under way. In this context, particular emphasis has been placed upon the rights of women and children, in educational materials and public awareness campaigns, as well as in official policies.

497. Namibia has made children a high priority. National and international initiatives aimed at children have been supported by government officials at the highest levels. Furthermore, Namibia's ratification of the Convention on the Rights of the Child has been accompanied by a real commitment to making its promises a reality in the nation - children have featured prominently in the nation's plans and in the allocation of national resources.

498. Children have been considered not only as individuals, but also as part of larger social structures, and there are many programmes which aim to improve the lot of children by empowering their families and their communities. Children are highly valued members of society in Namibian culture, and since independence they have consistently occupied a prominent place on the national agenda.

499. There has been a recognition in all government sectors of the connection between the economic, social and legal status of women and the welfare of the nation's children. It has been acknowledged in both the Namibian Constitution and in post-independence policies that women in Namibia have suffered special discrimination in the past, and families headed by women have been recognized as being particularly vulnerable. Therefore, a number of government programmes are aimed at improving women's health and welfare, as well as their access to income-generating activities and productive resources.

500. Improvement in the situation of women is moving slowly, but this is not surprising given the deeply-rooted nature of traditional attitudes about the roles of men and women. As Namibian women become more assertive and more skilful at organizing themselves, they will be in a better position to lobby for action to meet their needs.

501. In programmes to benefit both women and children, there has been an emphasis in all sectors on community-based approaches. Policy guidelines have been prepared in consultation with representatives from communities and non-governmental organizations, in a spirit of true participatory democracy. Although the process of consultation at all levels sometimes slows the pace of implementation, this is counter-balanced by the increased effectiveness of projects which have widespread input and support.

502. Community participation has also been a key operational component of the projects which have been implemented since independence. The Namibian Government is attempting to foster a spirit of self-help and self-reliance by working through communities rather than simply delivering services to them. This kind of community involvement exemplifies the depth of Namibia's commitment to democratic principles.

503. In the strategies aimed at children, there has been an emphasis on integrated multi-sectoral approaches which take into account the complex nature of most social problems, rather than relying on isolated piecemeal approaches. Interventions such as the Family Life Empowerment Programme, the Early Childhood Protection and Development Programme, the Household Food Security Programme and the National AIDS Control Programme have involved a range of government ministries working together with non-governmental and international organizations to develop initiatives which tackle problems in a holistic fashion. Such coordinated approaches are designed to address health, social and economic problems at their roots.

504. Although Namibia has experienced some understandable difficulty in defining the demarcation of responsibilities among its various new ministries in the early days following independence, the increasing reliance on integrated programmes has helped to alleviate this problem.

505. Under colonial rule, Namibia was isolated from the international community. However, since independence, Namibia has been able to work in cooperation with a host of international agencies, including a range of United Nations organizations, and has gained enormous benefits from their support and expertise.

506. It cannot be denied that the national agenda has been influenced by donor agencies. Although this international assistance has been invaluable, initially a certain lack of coordination among donors sometimes produced unnecessary repetition and overlap. This situation has improved, however, and many government programmes which are now under way would not have been possible without the financial and technical assistance of donor organizations.

507. The biggest constraint Namibia faces with regard to children is the inheritance of apartheid and colonialism which left a legacy of extreme inequality and development neglect. Children's issues, which are difficult to address in any society, are often compounded in Namibia by a history of discrimination, war and poverty. However, since independence there has been an explosion of creative initiatives, as the energies which were formerly focused on the goal of liberation are now being channelled into building a nation.

508. Namibia has been forced to adopt a double focus in its policies on children - by attempting to place the children who have suffered from past discrimination on an equal footing with those who were formerly privileged, while at the same time attempting to improve the situation of all Namibian children.

509. Like any new nation, Namibia has experienced some growing pains. But this survey of Namibia's efforts on behalf of children presents a record of remarkable achievements accomplished in a very short time with limited resources. Namibia has proven the strength of its commitment to guarantee a brighter future for the nation's children.